UNIVERSITY OF NEBRASKA
DEPARTMENTS OF HISTORY
AND ECONOMICS
SEMINARY PAPERS

Number 2 *April, 1892*

SLAVERY

IN THE

DISTRICT OF COLUMBIA

THE POLICY OF CONGRESS AND THE
STRUGGLE FOR ABOLITION

BY

MARY TREMAIN, M.A.

G. P. PUTNAM'S SONS
NEW YORK 27 WEST TWENTY-THIRD STREET
LONDON 24 BEDFORD STREET, STRAND
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out feeling that the considerations very soon were narrowed down to a purely selfish desire for gratifying sectional feelings of pride or convenience. Indications of this desire are shown in a speech made in Committee of the Whole, when Mr. Goodhue,[1] on opening the debate, said the Eastern members and the members from New York had agreed "to fix a place upon national principles without regard to their own convenience," and had decided the Susquehanna River to be the proper place for the capital.[2] The South readily saw in this the evidence of a concerted scheme on the part of the North to get the seat of government under Northern influence, and make it the centre around which to form a sort of commercial confederacy, perhaps with political designs. A Northern member, on the other hand, intimated there was danger of a Southern location resulting in an alliance between the West and the South, and in ultimate dismemberment of the Union. There is no indication that either party regarded the danger as imminent, but there was mutual distrust of motives.

The evidences of a combination among Northern members to settle the question to suit themselves were sufficient to arouse Southern jealousy. Mr. Madison says: "Early in the session, secret negociations were set on foot among northern states from Pennsylvania, inclusively. The parties disagreeing in their arrangements, both made advances to the southern men. On the side of New York and New England, we were led to expect the Susquehanna within a certain reasonable time, if we would sit still at New York, otherwise we were threatened with Trenton. On the side of Pennsylvania . . . the Potomac was presented as the reward for the temporary advantages if given by the southern states. Some progress was made on this ground and the prospect became flattering, when a re-union was produced among the original parties."[3] On nearly every vote taken, there was a sectional division, Delaware, customarily

[1] Member from Mass.

[2] Benton, *Deb. in Cong.*, i., 145; *Annals of Cong.*, 1789–1791, 868.

[3] Madison's *Works*, i., 492.

opposed to Pennsylvania, voting with the South, and Maryland being divided.[1]

The measure fixing the site on the Susquehanna prevailed in the House, but was not concurred in by the Senate, which preferred Germantown, Pa.[2] This amendment not being accepted by the House, the measure was postponed[3] till the second session. By that time the funding and assumption measures were before Congress, and were causing a warmer discussion than had taken place over the capital site. Threats of disunion were loud, and the friends of assumption, though in the minority, were trying in every possible way to turn events in favor of their measure. Fears were expressed in both parties as to the result to the Union whenever the decision on one side or the other should be reached. The division was nearly sectional, but South Carolina stood with the North, and Pennsylvania was divided. Hamilton, to save his financial policy from ruin, devised a plan and gained Jefferson's assistance in carrying it out. The Secretary of State gave a small dinner to which two or three of his Virginia friends, with Hamilton, were invited. A discussion of the situation in Congress took place over the dinner, and resulted in an agreement by which White and Lee promised to vote for assumption, and Hamilton arranged with the help of Morris to have the Potomac chosen as the site for the permanent capital.[4] This has been called a compromise, though it hardly deserves so dignified a name.[5]

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[1] Four of Maryland's six members voted for the Susquehanna in preference to the Potomac.

[2] *Annals of Cong.*, 1789–1791, 91.

[3] Benton, *Deb. in Cong.*, i., 167; *Annals of Cong.*, 1789–1791, 95.

[4] See account in Jefferson's *Anas.*

[5] There is some doubt of Madison's ignorance of this arrangement. He apparently did not participate in it, and if he was not unaware of its existence, he certainly was very ingenuous in referring to the possible necessity of passing the assumption bill. June 17th, he wrote: "I suspect it will yet be unavoidable to admit the evil in some qualified shape."—*Works*, i., 520. June 22d, regarding the capital, he says: "We are endeavoring to keep the pretensions of the Potowmac in view, and to give all circumstances that occur a turn favorable to it."—*Works*, i., 521. July 24th, in reference to assumption again he says:

That the Southern men were anxious to have the capital, and that they expected to gain an advantage from it is evident. Jefferson states clearly enough what this expected advantage was. But it is not probable that the South was willing to pay too dearly for it. Assumption was looked upon by many as a measure too grossly unjust to be accepted at all. A letter to Washington from Virginia early in June, 1790, says: "As to assumption of state debts, I scarce think it would be a measure generally acceptable on any principles. On such as have been contended for, I hardly think it could be acquiesced in by this State."[1] But it is certain the measure was modified so as not to be so objectionable to the Virginians as at first. Mr. Marshall goes so far as to say that the Virginia members withheld assent to it in the hope of gaining the seat of government; that more would have changed their votes if it had been necessary.[2] Jefferson, in his correspondence, says: "The question for assuming state debts has created greater animosities than I ever yet saw take place on any occasion. There are three ways in which it may yet terminate. . . . 3. An adoption of them [State debts] with this modification, that the whole sum to be assumed shall be divided among the states in proportion to their census; so that each are to receive as much as they pay; and perhaps this might bring about so much good feeling as to induce them to give the temporary seat of government to

"In its present form it will very little affect the interests of Virginia in either way. I have not been able to overcome my objections or even to forbear urging them; at the same time I cannot deny that the crisis demands a spirit of accommodation to a certain extent. If the measure should be adopted, I shall wish it to be considered an unavoidable evil, and *possibly* not the worst side of the dilemma."—*Works*, i., 522.

Considering the stand he had taken, we should hardly expect him to regard the loss of the capital as worse than assumption. I am of the opinion that he did not know of the arrangement made by Hamilton until after July 9th, and perhaps not before the passage of assumption. It is difficult to suspect one otherwise so candid and sincere, so superior to all the arts of the petty politician, of being guilty of greater duplicity than was shown by either Jefferson or Hamilton.

[1] Sparks, *Writings of Washington*, x., 94.

[2] Marshall, *Life of Washington*, ii., 191, note.

Philadelphia, and then to Georgetown permanently. It is evident that this last is the least bad of all the turns the thing can take. . . . This will probably give us the seat of government at a day not very far distant, which will vivify our agriculture and commerce by circulating through our State an additional sum every year of half a million dollars."[1]

While the struggle over the capital became purely selfish and sectional, it is absurd to claim that the slave interest as such had any part in it. In all the speeches and writings of the time there is not a word, beyond the joking expression of a member from South Carolina,[2] to indicate that slavery was mentioned or even thought of. The victory was with the North really, and later it was so regarded by both sections. At this time North and South joined in an outcry against the bargain by which it had been accomplished. Had it all been done, so far as Southern members were concerned, in the interests of slavery, and so understood at the time, it seems strange that twenty or thirty years afterwards Jefferson should have thought it necessary to excuse himself *to the South* for his share in the matter, by pleading that he had been duped by Hamilton. If any Southern members had been led by the hope of benefiting slavery, they must have disclosed it in conversations, in their speeches, or in their correspondence. During the Constitutional Convention Georgia and South Carolina openly demanded protection of the slave interests, but here none of the sources of information reveal a trace of such a thought. Madison, Jefferson, and even Washington, all of whom were anxious to restrict, rather than to favor, the growth of slavery, expressed themselves directly or indirectly in support of the Southern capital. Adams, who would be supposed to be interested in the matter from his position as a Northern man, and who certainly did not favor slavery, only barely men-

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[1] Jefferson's *Works*, iii., 159, 160.

[2] Mr. Burke said a Quaker State was a bad neighborhood for South Carolinians.—*Annals of Cong.*, 1789–1791, 1663.

tions the subject. Hamilton and Morris, both Northern men, the former soon afterwards president of a manumission society,[1] the latter heretofore opposed to every concession that favored the system, lent themselves to the scheme of making an arrangement, one side of which, some would have us believe, was understood to be in the interest of that system.[1]

In 1789 few of the Northern States could have offered free soil for the Federal District. Neither Pennsylvania nor New Jersey was free.[2] Nor were Northern States more sincere in their hope of casting off the burden than were Virginia and Maryland. It was absolutely impossible then to foresee that the system would die out in the North while it thrived in the South. Except possibly in South Carolina and Georgia, slavery nowhere was looked upon as a permanent institution; there was no desire to foster it. Hence this question could not have determined or influenced the selection of the capital site. But even if it could have done so, past experience could have given no reason for thinking the State or section that contained the Federal District would be able to exercise any great influence on legislation. Hence slavery was not likely to be favored more by a Southern site than by any other. The immediate interests of the system, moreover, as far as the claims of South Carolina and Georgia may be so denominated, were generally regarded as amply protected by the constitutional provision against prohibiting the slave-trade before 1808.

It could hardly be conceived that Maryland and Virginia would try, or would be permitted to make their own weight felt to any undue extent in matters of general legislation. New York and Pennsylvania are not supposed to have done so previous to 1801. All the American Congresses for twenty-five years had sat in the Northern States, and yet

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[1] Goodell, *Slavery and Anti-Slavery*, 95.

[2] Pennsylvania passed a law for gradual abolition in 1780, which declared that children of slaves born after the passage of this act, should be free at the age of twenty-eight. Dunlop, *Laws of Pennsylvania*, 127. The law abolishing slavery in New Jersey was not passed until 1804.

we cannot point to one measure that can be said to bear the distinctive mark of a sectional or State influence. The Constitutional Convention, composed largely of men with the most earnest convictions against slavery, many of whom must have had opportunities for seeing the advantages of a free system of labor, while sitting in the neighborhood of the strongest anti-slavery sentiment of the time, could stoop to compromise with the slave power for the sake of perfect union.[1] The importance of this decision in the history of the slavery question seems to have been somewhat exaggerated by most anti-slavery writers. With respect to this question, the nation's cup of shame is full without the charge of a deliberate design to hand over the machinery of government to a system of which she cannot yet be said to have become the servant.

While legislation for the District of Columbia was somewhat affected by the character of the institutions in adjacent States, there is no reason for believing legislation on other subjects, or on slavery in general, shows the influence of the Southern surroundings of Congress. There are some reasons for thinking that whatever influence arose from a Southern situation of the capital would tend later to work against, rather than for, such an institution. It seems but natural to expect that the daily sight of the most revolting features of the system—so revolting that Southern slave-holders themselves cried out against them,—should have turned Northern men against every pro-slavery measure.

So far as the influence of the inhabitants of the District may be counted, if it may be considered of any importance whatever, it must have been, in the earlier period at least, decidedly against slavery. We know that as late as 1835 petitions from the District asked for abolition, and that in 1828 such a petition was read in Congress as signed by a thousand inhabitants, many of them slave-holders. And yet even before this the government had begun to make conces-

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[1] "The principle had been bargained away for the sake of the Union."—Von Holst, *Const. Hist.*, i., 300.

sions to the slave power in legislation.[1] That a certain moral influence must have been exerted upon all connected with the government cannot be denied, but this arose rather from the government's general relation to slavery than from the existence of slavery at the capital. So there is a question if the result of this influence would have been materially different in a Northern location. Slaves could not have been shut out of the Federal city entirely, for it is not probable that slave-holding members of the government would have been prohibited at any time from bringing their domestics to the capital with them; and slavery exhibited thus would not have presented to the North an aspect less agreeable than that they viewed in the Southern District of Columbia.

It was not the existence of slavery in the District that demoralized the government and rendered it incapable of preventing or resisting the encroachments of the South. Later, the fear of exciting the alarm of Southern slaveholders, and thus endangering the Union, was what prevented Congress from legislating properly in respect to slavery in the District. The Federal District, so far from causing or encouraging a weak, conciliatory policy towards slavery, was one of the greatest sufferers from that policy.

[1] I think the attitude of Congress on the question may have influenced the people of the District, and that this may help to explain their later opposition to abolition.

II.

CONGRESSIONAL GOVERNMENT IN THE DISTRICT.

The object of making Congress the sole authority over the territory containing the seat of government had been to avoid a repetition of the Philadelphia disgrace, in case of another invasion.

By act of Congress July 16, 1790, the offers of the legislatures of Maryland and Virginia were accepted, and it was declared that the ceded territory should remain under the control of the two States until the removal of the government offices to the District, and until otherwise provided by Congress.[1] In 1801, as soon as Congress had taken possession, arose the question of the method of governing the District. It was impossible to frame an entirely new code of laws. For some reasons it was desirable that Maryland and Virginia should no longer retain their authority there, even if the constitutionality of such a thing could not be questioned. The smoothest way out of a difficulty seemed to be presented in an act providing for the authority of Congress in all matters of general government, and allowing the laws of Maryland to December 1, 1800, to remain in force in the county north, and those of Virginia in the county south, of the Potomac.[2] It also provided a system of courts and defined their jurisdiction; the appointment of the judges rested with the President. Three commissioners, appointed by him and responsible to him, acted as executive officers. The heaviest portion of the work now seemed done, and easily done. Apparently the majority thought, with the member

[1] *U. S. Statutes at Large*, i., 130.

[2] *Statutes at Large*, ii., 104.

from South Carolina, that "the laws would answer very well for fifty years without giving Congress much trouble to modify them."

From one point of view this act of 1801 was not a singular one to adopt. The change of jurisdiction had been in accordance with the will of the whole State in each case, but not conditional upon the wish of the people of the District. There naturally would be less dissatisfaction with the change if the laws under which they were accustomed to live could be left unaltered. Then the task of forming a complete new code, suited to the local as well as the general needs of the people, was an impossible one to perform. Yet these difficulties might have been overcome in part by revising the two systems already existing, and bringing them into uniformity. This is what should have been done, but it must be conceded that the work would have involved much labor and discussion, at a time when many other matters of importance to the whole nation needed attention. As it proved, the existence of two sets of laws, often in conflict with each other, for this little territory of a hundred square miles was productive of infinite confusion to the courts and of constant annoyance to Congress itself on account of the special legislation necessitated.

Many of these laws had been passed generations before, and were ill adapted to the present needs of the people. Chief-Justice William Cranch, of the Circuit Court for the District, writing to Congress Nov. 9, 1818, says: "The laws thus adopted [by act of 1801] consisted of so much of the common law of England as was applicable to this country; of bills of rights, constitution, and statutes of Virginia and Maryland, modified by the Constitution and laws of the United States, and also (in regard to that part of the District which was ceded by the State of Maryland) of such of the English statutes as existed at the time of the first emigration to Maryland, 'and which by experience had been found applicable to their local and other circumstances, and of such others as had been since made in England or Great Britain, and had been introduced, used, and practised by the

courts of law or equity ' of that State." [1] By the summary action of Congress no opportunity was given for a revision. Very few, indeed, of those that voted for the bill knew anything about these laws. The debate was entirely on the *necessity* for the bill as a whole; almost the only objections were to depriving citizens of their political rights, and not at all to the character of the laws themselves.[2] Many of these were repealed by the legislatures of Maryland and Virginia, so far as concerned their own States, in the early part of this century. Some, passed as early as 1715, were in force in the District of Columbia up to 1862. Those relating to servants and slaves were especially severe. In both States these laws had been considerably modified even before 1800. Emancipation was allowed, and some pretence was made towards protecting the rights of free negroes, though too often affairs were managed by those to whose interest it was to disregard those rights. Many of them, and not those alone relating to slavery, were bad enough to disgrace any nation calling itself civilized, not to speak of one claiming to have made liberty its corner-stone.

There has been some question of the constitutionality of the act of 1801. The arguments in opposition to it have been brought up in regard chiefly to its bearing upon the subject of slavery. As a matter of fact, however, slavery already existed in the District of Columbia; it was recognized as legal by the North as well as by the South; and whatever the objections to it, no one seems to have had the courage or the desire to submit the question to a judicial decision.[3] One would think the nation had done enough already to encourage and strengthen the system without taking upon herself the burden of a direct participation in it. The act of 1801 was but the prelude of the measures that were to

[1] *Annals of Cong.*, 1818–1819, 300.

[2] Mr. Nicholas, of Va., said in the debate, Dec. 1, 1800: "It would impose upon them [the people of the District] all the laws of Maryland and Virginia as they existed on the first Monday in December, without those improvements which experience may suggest."—Benton, *Debates in Cong.*, ii., 519.

[3] The strongest argument I have seen against its constitutionality is that of Horace Mann, in his speech in the House of Representatives, Feb. 23, 1849.

follow; and, compared with the various later compromises, and the fugitive-slave acts, was unimportant in its effect on the national honor. The carelessness and indifference with which it was passed may be looked upon now as significant of the position Congress was thereafter to take towards legislation for the District.

It promised to be an easy matter to legislate for this little territory of ten miles square, but a very short experience was sufficient to show that no light burden had been assumed. Very soon it became necessary to make laws reconciling conflicts between Washington and Alexandria counties, and between these counties and the States adjacent to them.[1] If Congress had passed all the laws really needed, the result would have been an almost complete code, superposed upon the two State systems in use in the respective counties. Whatever was done, was done under difficulties. Perhaps, with the best of intentions, a measure would be introduced in response to a petition from one part of the District. Immediately a counter-petition would come from another part, asking that the measure be not passed. If Washington County wished for a change in certain laws, Alexandria County was nearly certain, from jealousy or for local interests, to oppose it, or to want some slightly different measure. So Congress, burdened with matters of national importance, was constantly hampered in its legislation for the seat of government by local jealousies, by ignorance of the real needs of the District and lack of means for ascertaining them, and, most of all, by the necessity of trying to reconcile the two legal systems which had been the chief cause of the other difficulties. The result was that no more legislating was done for the District than was unavoidable.

The work had been begun badly, in passing the act of 1801, and thereby evading the duty of preparing uniform laws. It might be unnecessarily harsh to say that everything has been done in quite as perfunctory a manner from

[1] An amendatory act of May 3, 1802, permitted the removal of slaves to, or the hiring of them within, the District.—*Stat. at Large*, ii., 194.

the beginning, but certainly the interest shown in repairing a sad state of things has been but spasmodic, and in very many instances it is impossible to see any evidence of care and thoughtfulness. Members of Congress themselves have admitted that there was neglect in legislation. January 18, 1811, in urging the establishment of a territorial government in the District, Mr. Van Horn said plainly that it had been proved by experience that Congress either could not or would not attend to the District.[1] In 1816 the committee complained of the difficulty in getting the attention of Congress to most important questions.[2] In fact, there is almost constant complaint from the District Committee in Congress, or the inhabitants of the District outside, of the delays and postponements that, as a rule, resulted in the utter neglect of important measures intended to benefit this practically helpless portion of our citizens.

For a number of years there was no special provision for bringing the needs of the District to the notice of Congress. In January, 1808, a resolution was introduced into the House by Mr. Key of Maryland, "for erecting a standing committee of the House . . . on all concerns relative to the District of Columbia,"[3] and after very little discussion adopted. The object of appointing this committee was "to render more simple the business of legislating" for the District. This has proved an imperfect means of helping the people, however much it may have simplified the work of Congress.

Before this time, the difficulty of legislating satisfactorily, and the amount of time required by Congress in attending to the smallest local affairs here, had been urged as a reason why the attempt should be abandoned. As early as February 8, 1803, resolutions were introduced and discussed to retrocede the two counties to their respective States. Besides using the stock argument regarding time and expense, Mr. Bacon of Massachusetts, struck the keynote

[1] *Annals of Cong.*, 1810–1811, 626.
[2] *Annals of Cong.*, 1815–1816, 472.
[3] *Annals of Cong.*, 1807–1808, 1512.

of the trouble when he said that by retaining exclusive legislation laws would be made by men who had not the interest in the laws made that legislators ought to have; by men, also, not acquainted with the minute and local interests of the District.[1] Mr. Varnum of Massachusetts, said if he thought it possible for Congress to legislate for the territory he should have no objection to retaining jurisdiction. But when he considered that Congress was appointed to legislate on great objects, and not on minute local concerns, he did not think them competent to legislate for persons situated in the Territory of Columbia.[2] The debates give evidence of an uneasy consciousness in the House of the defects in the laws, and the injustice of depriving citizens of their political power, and giving them only a very poor government in return. Some really believed a retrocession would be unconstitutional, and would lead almost of necessity to a removal of the capital. Others thought the territory might be retained, and a remedy for all defects and injustice would be found in a revision of the laws.[3] Still others urged the forming of a local government. The resolutions were lost. Twice in 1804 the same subject was discussed, and it came up in different forms at frequent intervals till 1836. In 1839, when Mr. Adams presented the petition of William Lloyd Garrison and others for a removal of the seat of government to some Northern State, he gravely suggested the appointment of a committee to inquire into the constitutionality of a removal, and the recession of the two counties to their respective States. He thought if Congress was found to have the power, this would be a compromise that might be made a substitute for the abolition of slavery in the District.[4]

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[1] Benton, *Debates in Cong.*, ii., 736; *Annals of Cong.*, 1802–1803, 488.

[2] *Annals of Cong.*, 1802–1803, 503.

[3] Mr. Dennis of Md. opposed the resolution, but suggested that the President revise the laws of Maryland and Virginia and report to the next Congress. Benton, *Deb. in Cong.*, ii., 737.

[4] Adams, *Memoirs*, x., 93.

Finally when the bill for the retrocession of Alexandria County was brought in, in 1846, few of the old objections were raised. There could be no strong opposition on constitutional grounds. Mr. Hunter of Virginia, in his speech in support of the bill, alluded to the bad effects of Congressional government on the industries of that county, deprecated withholding political rights from the people unnecessarily, and referred with feeling to the injustice and injury caused by keeping in force a system of laws which the people had outgrown, and some portions of which were over a hundred years old.[1] He spoke also of the difficulties attending a revision of the laws on account of jealousies between the two counties, and urged that Congress be relieved of at least one portion of the burden. The thought apparently did not occur to the gentleman or to his associates that so meritorious an act should not be left incomplete, and that this was a good occasion for urging a revision of those Washington County laws of whose defects he appeared so well informed.

It is not difficult to learn something of the feeling of the people on the subject. Their dissatisfaction with their condition is plainly shown. But what they did want is not so evident. There seems to have been quite a strong desire on the part of both Alexandria and Georgetown for retrocession. This may have been for the sake of regaining political rights, for the benefit of the better laws, or because of their jealousy towards Washington. Petitions were continually coming to Congress asking, sometimes for a change in some particular law, sometimes for a general revision. Many of these asked for retrocession and many more for a territorial government. In 1803 a petition called the attention of Congress to defects in the administration of justice in the District, and particularly to the inequality of fees in the Circuit Court of Washington County with those in Alexandria County; to defects in the militia system; to conflicts between property rights in the two

[1] It is not to be understood that these are the principal reasons for urging the measure. See *Nat. Era*, Feb. 24, 1848.

counties, etc.[1] To all appearances the number of reforms needed was unlimited. In his message to Congress, November 17, 1818, President Monroe recommended that some measure be adopted for better securing the interests of the people of the District of Columbia in government.[2] In December the Grand Jury for Alexandria County proposed the retrocession of that portion of the District to Virginia, and appointed a committee of nine to promote the measure.[3] This committee met and resolved that since the attention of Congress had been called to the condition of the District, it was inexpedient to do anything till the report of the committee on the District of Columbia on that portion of the President's message should be known.[4] That public sentiment was growing in favor of retrocession may be inferred from a paragraph in *Niles' Register* for Jannary 22, 1820, describing briefly a public meeting held in Georgetown to consider the question.[5] But it also shows that there was still a division of opinion.

Running nearly parallel in point of time with the question of retrocession were the two questions of giving the District a territorial government, and framing a code of uniform laws. While Congress spent days in discussing the first, very little attention was paid to the last two. The situation of the District was peculiar. Being separated from Maryland and Virginia, its interests were no longer identical with theirs. It had no legislature of its own, and no representative in the national legislature. Worse than that even—as its inhabitants had no political power, they had absolutely no political influence, and the choice between no government at all and

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[1] *Annals of Cong.*, 1804–1805, 1621.

[2] *Nat. Intell.*, Nov. 18, 1815.

[3] *Niles' Register*, xv., 294.

[4] *Nat. Intell.*, Dec. 15, 1818,

[5] "A great public meeting of the inhabitants of this city was held on Saturday evening to determine the question of a retrocession to Maryland. The chair was taken at 4 o'clock, and the debate lasted till 11,—when, the question being called for, the tellers found it impossible to ascertain how the vote stood, so it was determined that subscription papers should be opened to obtain the opinion of the citizens."

a tyranny lay with Congress. Then, too, the people were not united, and could not unite, on anything. The two counties were jealous of each other, and Georgetown was jealous of Washington. Probably the people came under the authority of the United States willingly. At the time of the discussion over the bill of 1801, a petition from the inhabitants asked Congress to assume the authority over the District permitted by the Constitution, instead of leaving it with Maryland and Virginia. But they either gave up more than they had intended, or soon were awakened to an appreciation of the inconveniences of their position. In February, 1803, a petition from the inhabitants of Washington and Alexandria stated that for more than two years they had submitted to the government of the United States in the hope that their interests would be "solicitously consulted and faithfully promoted," but experience had proved the hope elusive.[1] They asked to have a legislature. A counter-petition from Alexandria was presented at the same time.

The petition was the excuse for introducing a bill to establish the government of Columbia, which provided for a legislative body of two houses.[2] February 26th a memorial from the citizens was read approving the bill and asking its adoption.[3] But, though referred to the Committee of the Whole for a certain day, it did not come up on that or any succeeding day apparently, and probably this measure, like so many others of the same import, was dropped. The result of the movement for a retrocession, in 1818, was an effort on the part of the committee appointed to learn the popular mind on the question of a local government. This committee reported that there appeared to be a majority of the people against it.[4] February 12, 1820, a resolution passed the House to allow the "people of the District of Columbia to form a frame of government,"[5] but it appears not to have come up

[1] *Nat. Intell.*, Jan. 29, 1803.
[2] *Annals of Cong.*, 1802–1803, 509.
[3] *Annals of Cong.*, 1802–1803, 604.
[4] *Nat. Intell.*, Jan. 6, 1819.
[5] *Niles' Register*, xvii., 438.

in the Senate. March 9, 1822, a petition was read which asked Congress to find out whether a majority wished to be re-invested with the rights of citizenship, and if so, in what manner it could best be accomplished.[1] March 21st, a bill was presented by the committee on the District of Columbia as a result of the petition, to enable the inhabitants to form a government.[2] In 1825, the *Weekly Register* says: "The people (we cannot call them citizens) of this District are making an effort to obtain a territorial government. We think they might lawfully ask it, and are at a loss to know why it should be refused them. It is impossible for Congress to attend to their local wants in a satisfactory manner."[3] About this time there is a period of brisk agitation of the subject, and some rather sharp criticism of Congress finds its way into the papers.[4] It gives sufficient evidence of the general dissatisfaction with the condition of things.

Whether the scheme of a territorial government was a wise one or not, it could have done scarcely less for the people than had already been done. Enough time was spent

[1] *Niles' Register*, xxii., 46.

[2] Benton, *Deb. in Cong.*, vii., 291.

[3] *Niles' Register*, xxix., 246.

[4] *Niles' Register*, xxix., 246. In the *Nat. Intell.* of Feb. 17, 1825, a correspondent says: "It is but too visible that Congress always looks with reluctance at the situation of the District, and is indisposed to take any effectual measures to improve the patchwork system of jurisprudence, which by adopting the codes of Maryland and Virginia as they existed twenty-four years ago, they have imposed on it.

"But if Congress will not legislate for the District like a kind and benignant monarch, let them at least give it a legislature like that of Michigan. The District must be low indeed to be denied this humble boon. The truth is, the opposers of a local legislature will almost always be found to be persons holding lucrative offices and living at the expense of the people."

The *Nat. Intell.* for Dec. 9, 1825, notices a public meeting in Washington favoring the establishment of a territorial government on a representative basis. Mention is made here of the fact that a bill was introduced at the preceding session of Congress to establish such a government, and also that petitions were presented from Georgetown, Alexandria, and one from Washington, in opposition to the measure. One from Alexandria acknowledges the need of a change, but favors retrocession. The other from Alexandria and that from Georgetown object from avowed jealousy towards Washington. The most reasonable objection is given on the ground of the increased taxation necessary for carrying on a local government.

by Congress to have regulated the affairs of the District, and yet because of its lack of system and its persistent refusal to form a system, they were badly conducted.[1] This question of forming a territorial government seems to have found no direct opposition in Congress. There was little discussion of it; it was simply crowded into the dark and left there. It would have been less vexatious if some reason, good or bad, had been given why it should not have been considered. Giving the District a representative in Congress was also advocated, and received nearly the same treatment,[2] though it is now generally believed that such a measure would have been unconstitutional.

The subject of a uniform system of laws met with no more hearty support. The inconvenience of having two codes for the District was very soon manifest. Early in 1803, a resolution was introduced in the House, looking towards the revising of the Washington and Alexandria County laws, and the framing of a code; but nothing came of it. In 1816 a stronger and more promising movement towards the same end was made. Mr. Pickens spoke of the "miserable system of jurisprudence composed of the laws of these two states [Maryland and Virginia] as they were fifteen or twenty years ago without having the advantages of subsequent amendments."[3] The Judiciary Committee reported a bill which, as passed, authorized the Judges of the Circuit Court for the District of Columbia and the District Attorney to frame a code and submit it to Congress for amendment.[4] The appropriation of fifteen hundred dollars as a compensation for the work scarcely shows a full appreciation of the difficulties involved. After nearly three years of work on them, Chief-Justice Cranch sent in a report.[5] It was referred

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[1] *Niles' Register*, xxiv., 2.

[2] This measure was anticipated by Mr. Huger in the session of 1802–1803 in the discussion of another question.—*Annals of Cong.*, 1802–1803, 488.

[3] *Annals of Cong.*, 1815–1816, 471.

[4] *Annals of Cong.*, 1815–1816, 1408.

[5] *Annals of Cong.*, 1818–1819, 300. Benton, *Deb. in Cong.*, vi., 202. The others refused to have anything to do with the work because the appropriation was so small.

to a select committee,[1] which presented its report January 28, 1820, with a resolution that the code be referred to the Circuit Judges and the Attorney for the District, who should be requested to examine it and report amendments at the next session of Congress.[2] Beyond this no attempt seems to have been made to look into the merits of the proposed code, and it is certain that it was not adopted. April 8, 1822, the people of the District petitioned for the adoption of this code, and their petition was referred to the committee on the District of Columbia.[3] The *Intelligencer* for January 13, 1827, says: "The city as well as the District at large suffers much from the want of a Code of Laws applicable to the whole. It is now almost impossible for any citizen to say what is the law of the place."[4] For the ten or fifteen years following 1820, the complaints are loud. The newspapers are full of them, and criticism of Congressional government in the District, whatever the reserve on the slavery question, is as frank and open as if Congress never had approached Washington. In 1830,[5] 1831,[6] and again in 1833,[7] this subject was brought up in some form by different members, but was rejected or allowed to die from neglect.

March 3, 1855, Congress passed an act providing for the preparation of a revised code. The code was completed,

[1] Composed of Messrs. Herbert, Culbreth, Garnet, Williams of Conn., and Adams.

[2] *Annals of Cong.*, 1818–1819, 870.

[3] *Annals of Cong.*, 1821–1822, 1487.

[4] A personal card appears in the same paper, somewhat amusing, yet of some value perhaps as showing the feeling towards members of Congress: "To the Editors. Gentlemen: As an inhabitant of this District, permit me, through your paper, to tender to the Hon. George M'Duffie the homage of my respect and acknowledgments for the truly American, liberal, and kind sentiments which he publicly expressed towards the People of this District, in his toast at the festival of the 8th inst., and respectfully to suggest to him, whether the attempt to accomplish his generous views would not be an effort worthy of his eminent abilities and manly feelings."

[5] By Mr. Webster.

[6] By Mr. Ihrie.

[7] By Mr. Chambers.

and reported to Congress in 1857. The prefatory note says: "Our statute law flowing from three distinct sources, is necessarily inconsistent in many of its parts. Much of it also is obsolete. Much of it is disfigured by the prejudices of a past age. But perhaps the best founded complaint of all is the entire absence of any statutory provisions in relation to matters, which in the progress of time and development of society have been made the subjects of legislation in almost every other civilized community."[1] Most of the ancient barbarities are thrown out, but nearly all the laws belonging to that class peculiar to the Southern States seem to have been modelled on the Maryland and Virginia systems. This code was to be published and circulated, and the President was to appoint a day for the inhabitants to vote on it. The result of the vote was to be reported to Congress, and, when ratified and approved by the same, the President was to declare the code in force.[2] There seems to be no trace of it after the publication. It probably went the way of all the other codes for the District of Columbia.[3]

It is impossible to read the record of Congress' inaction on this subject, especially after the beginning of the slavery agitation, without feeling that the charge of neglect is just. It is difficult to believe that any one could live in Washington six months in the year without finding that the laws were defective and unjust. Yet, granting that he could, what

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[1] Aug. 10, 1818, the Grand Jury of Washington County, calling attention to the bad condition of the jail, speaks of the District of Columbia, even at that time as being much behind the States of the Union in its laws.—*Nat. Intell.*

[2] *Cong. Globe*, 23d Cong., 2d Sess., Appendix, 401.

[3] Subsequent codes have been prepared, but none as yet adopted. A late Washington paper publishes an interview with one of the commissioners recently appointed to codify the laws. This gentleman, Mr. Abert, says: "The need of the compilation of the laws of the District is, and has been for three quarters of a century, a pressing one. Congress, however, has seemed to be strongly averse to doing anything to relieve the difficulty under which all lawyers practising here suffer. Although numerous codes of laws exclusively for the District have been presented for the approval of Congress, none has ever been adopted, and we are still forced to grope along in our practice, depending too often upon striking a point of value in some of the ancient books which we are constantly ransacking."—*Sunday Herald*, July 27, 1890.

possible excuse could be given for a persistent refusal to remedy them when once he learned their character? In 1827, the Committee on the District of Columbia, of whom a majority were Southern men, after investigating the subject, reported that the laws of Washington County were unjust, and introduced a bill for modifying them. It was laid over till the following day and never taken up again. In 1829, Mr. Miner of Pennsylvania presented a set of resolutions on abolition in the District, in the preamble of which he set forth the legalized injustice practised upon free blacks. Some of the members refused to believe his statements, even when Mr. Miner brought proof of them. The Grand Jury presentment, the words of their own partisans, newspaper statements, the reports of committees, were cited in vain; Congress refused, or neglected, to change even the laws permitting the sale of free blacks. But it was the same with all the laws. In 1831, a new code of penalties was adopted. Yet many of the old penal laws remained in force and never were changed. In his first annual message to Congress, President Van Buren refers to the District in this manner: "Being separated from the rest of the Union, limited in extent, and aided by no legislature, it would seem to be a spot where a wise and uniform system of government might easily have been adopted. This district however has been left to linger behind the rest of the Union; its codes, civil and criminal, are not only very defective but full of obsolete and inconvenient provisions. . . . I am well aware of the various subjects of greater magnitude that press themselves on the consideration of Congress; but I believe there is no one that appeals more directly to its justice, than a liberal and even generous attention to the interests of the District of Columbia, and a thorough and careful revision of its local government."[1] The next year attention again was called to this matter by the message, but in vain.

While Congress was undoubtedly prodigal of time and money for the District in certain ways, there appears an entire absence of systematic effort in the direction of improve-

[1] *Addresses and Messages of the Presidents of the United States.*

ment in its administration. Simply the things that were imperatively required at the moment were done, and all others were neglected. The action in regard to the slavery laws is only one illustration. Before 1830 the anti-slavery agitation so far as it concerned the District really hinged on the injustice of the laws towards free negroes and slaves. Nearly every movement in the matter, while looking towards gradual emancipation, was based upon the abuses of the laws or directed primarily towards their amendment. It was the injustice constantly practised by the lower courts and the local officers, more than any other one thing, that led to the great number of petitions previous to 1836. Yet a measure of reform could not be carried.

The study of the period previous to 1830 leads inevitably to the conclusion that whatever interest Congress felt in the District was negative. Matters of local interest involving little discussion, and so promising to take but little time, might be undertaken; but anything, whether relating to slavery or not, important enough to demand very serious consideration, or of enough general interest to lead to agitation, should be smothered in committee or left on the table. In this respect Congress consistently carried out the policy begun in its first measure of 1801—that of taking up, as far as possible, only what promised at the moment to demand the least of its time and attention. As a matter of fact enough time was spent over District matters of minor importance, to have drawn up and discussed an entirely new system of laws, to have established and regulated an efficient territorial government, or to have passed almost any measure calculated to be of real and permanent benefit. But it was spent on petty, insignificant affairs which might have been controlled by some more local organization,— the building of a bridge across the Potomac at a certain point, the construction of a canal within the District, the regulation of the police for the city of Washington.

As to whether slavery in the District had been considered in the early period to have a vital connection with the slave interests in the Southern States, we find no evidence unless

in the action and constitution of the Committee on the District of Columbia. While it appears that usually a majority of this committee were from the South, there is nothing to prove that this was the settled policy in the appointment of it, or that the opinions of the members on slavery were considered.[1] There is a probability that the idea of having on it those familiar with the institutions and laws of the District led to the appointment of Southern men. Certainly there was always one from Maryland and Virginia each.

As before stated, the first committee was chosen in 1808. It consisted of seven members, five of them, including one from Delaware, being from the Southern States. The only time when the question of slavery in the District had been brought before Congress was three years earlier, in 1805. But then there was no discussion and no reference, the proposition simply being voted down. The appointment of a majority from the South could hardly be a result of this attempt. From 1808 onward, except in the session of 1809–1810, the committee had a majority from the Southern States. In 1821–1822, after the Missouri excitement, when, if there had been thought to be any necessary connection between the District of Columbia and the South in the slavery interest it would have been shown here, the Speaker, Mr. Barbour of Virginia, appointed four Northern and only three Southern members to this committee. In these debates (on the Missouri question) reference to abolition in the District had been made by Southern men, and the North had been taunted with its unwillingness to abolish slavery here where Congress was supreme. Of the four Northern men appointed on this committee, two, Mr. Rochester and Mr. Matlack, though not making themselves prominent, voted generally against slavery. Mr. Patterson and Mr. Mallary had been strongly opposed to slavery in Missouri. In 1824 Speaker Clay re-appointed Mr. Matlack, and appointed also Messrs. Thompson and Findlay of Pennsyl-

[1] The committee referred to is, in all cases, the one in the House, where the anti-slavery agitation was strongest, and was first resented. The lists used were taken from Niles' *Weekly Register* and the *Annals of Congress*.

vania, and Mr. Gazley of Ohio. As no slavery measure comes up at this session we do not learn how the last two stand on the subject.

Mr. Taylor of New York, whose resistance to the admission of Missouri as a slave State is well known, the only Northern man elected to the speakership in this period, in making up this committee in 1825, reversed the proportion, giving the South the majority again. From that time till 1830–1831, which was probably the most critical time for slavery in the District before the great agitation, the same proportion was kept by Speaker Stephenson of Virginia. It is probable that an apprehension of great danger in this direction would have led to giving more than a bare majority to the South. In December, 1834, the same Speaker appointed five Northern and four Southern members, but of the five Northern men, one, Vanderpoel of New York, was well understood to be a friend of slavery. For a time after the agitation of 1835–1836, a majority, often two thirds, were Southern. That the constitution of this committee was now, or soon afterwards, recognized as important must be acknowledged; and in 1849 we find the Free Soilers demanding that "it should be so composed that it would not, as hitherto, simply lay *ad acta* all petitions and motions favorable to freedom."[1] While this was not a period when the circumstance of representing a Northern State implied in the representative the existence of anti-slavery sentiments, neither was it the period of the greatest servility on the part of the North towards the South. When the importance of this committee was recognized, and until the District question was overshadowed by a more important one, not even a sycophant could be trusted to hold the balance of power on it.

It is evident that no good ground exists for asserting the legislative work in the District and the persistent indifference of Congress to a reform of the slavery laws to have been intended, previous to 1829, to benefit the slave system as a whole. The conduct of District affairs in Congress was not regarded as seriously affecting the slave interests in gen-

[1] Von Holst, *Const. Hist.*, iii., 469.

eral, and was a matter of comparative indifference to both North and South. Both sections were slow to appreciate and make use of the influence of the committee; the committee itself cannot be said to have exerted its influence particularly for either North or South on this subject, and no advantage to slavery especially was thought to be effected by the composition of the committee. Beyond a doubt, neither in the location of the seat of government, nor in the legislation for the District up to 1829, was Congress especially subservient to the slave power. While the revision and amendment of the slavery laws was evaded, the revision of other laws was evaded also. The rights of free blacks indeed were shamefully neglected, but matters of quite as much importance to the inhabitants in general received no better treatment.

III.

THE SLAVERY LAWS.

White indentured servants were brought to Virginia among the first immigrants, and their importation continued for some time after the introduction of negro slavery. Service by indenture, in fact, did not cease in Maryland or Virginia until after the Revolution. By the terms of indenture [1] the servant became, for the time, almost as completely subject to the master as a slave for life. These people were of the lower, often of the criminal classes, of England, and very stringent laws were soon passed by the colonies to keep them in order. In Maryland the time of service as fixed by

[1] Neill, in *Virginia Carolorum*, p. 57, gives a specimen of this contract: "... The said John Logward hath hired himselfe and is become and by their prste doth Covenant and agree to bind himselfe to be remayne and Continue the Obedient Servante of him the said Edward hurd his heires and assignes and to be by him or them sente transported into the Countrey and land of Virginia in the parts beyond the seas to be by him or them employde on his plantation there for and dureing the space of ffour yeares to begin from the day of the date of this prste dureing the said terme the said John Logward shall and will truely employ and endeavor himselfe to the uttermoste by his power knowledge and skill to doe and pforme true and faithful service unto ye said Edward hurd his heires or essignes in for and concenteing all such Labourers and businesses at he or they shall think good to use and ymploy him ye said John Logward in And shall and wilbe tractable and obedient and a good and a faithful servant onyst to be in all such thinge at shall be Comanded him by the said Edward hurd his heires and essignes in Virginia aforesaid or elsewhere dureing the said service. In consideracon whereof the said Edward hurd for himselfe his heires executours administratours and assignees ... by theis prste that he the said Edward hurd his heires executours administratours and assignes shall and will (at his and their one charge) transporte and furnishe to the said John Logward to and for Virginia aforesaid and these pvide and allowe unto him sustenance meate drink apparaell and other necessaryes for his lively hood and sustenance during the said service."

law varied, requiring, in 1654, all between the ages of sixteen and twenty-six to serve four years,[1] in 1661, all to serve four years,[2] and in 1666 all having reached the age of twenty-two to serve five years.[3] In Virginia, 1642–1643, the servant above twenty years of age was to serve four years,[4] in 1657–1658, if above sixteen, he was to serve four years.[5] The time was changed to five years in 1661–1662,[6] and in 1666, if the servant was nineteen or over, he was to serve five years.[7] These laws were more in number in Maryland than in Virginia, and the necessity for frequent re-enactment gave opportunity for improvements. If we may judge by the provisions for security against ill-treatment by masters and for rendering the servant self-supporting after the time of service was over, and by the emphasis apparently laid upon these points, they were also more favorable to the servant.

For some time slaves are scarcely mentioned in the laws. The inference is that, in general, laws made for white servants would be applicable to slaves. In a Maryland law of 1639 relating to the period of service we find the phrase "excepting slaves,"[8] and a law of 1664 declares distinctly who shall be considered slaves.[9] In Virginia, a law of 1639 forbids negroes, presumably slaves, to carry firearms. Both colonies, to quiet the fears of slaveholding citizens, early passed laws declaring that baptism did not confer freedom.[10] They were no longer to endanger the eternal welfare of their black servants through fear of financial loss. Both colonies provided a severe punishment for the importation and sale

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[1] *Archives of Md.*, i., 352.
[2] *Archives of Md.*, i., 409.
[3] *Archives of Md.*, ii., 147.
[4] Hening, i., 257.
[5] Hening, i., 442.
[6] Hening, ii., 113.
[7] Hening, ii., 240.
[8] *Archives of Md.*, i., 80.
[9] *Archives of Md.*, i., 533. Scharfe, *Hist. of Md.*, ii., 37, says: "The 'negro code' did not distinguish between black and white servants until the negro slaves outnumbered the white redemptioners."
[10] Virginia in 1667, and Maryland in 1671.

of any person who had been free in any Christian country where he had lived previously.[1] Both colonies provided for emancipation.[2] In Virginia an act of 1782 declared that the owner of slaves might emancipate them "by his last will and testament or any other instrument under his hand and seal, proved in the county court by two witnesses."[3] In 1699 the act of emancipation had been declared nugatory unless the freedmen were sent out of the State within six months[4]; and a colonial act of 1723 had restricted emancipation to those that had rendered meritorious services, to be adjudged and allowed by the governor and council.[5] Two or three times special acts of the legislature had granted freedom after the beginning of the war with England, when circumstances made it impossible to obtain the consent of the governor and council.[6] The law of 1782 remained in force in the District of Columbia apparently without modification to the time of retrocession in 1846.[7] But other means of obtaining freedom were legally practised. In 1778 the importation of slaves into Virginia was prohibited and a heavy penalty laid upon the importer as well as upon the buyer.[8] The slaves so imported became free. In 1785 it was declared that all slaves thereafter brought into the State and kept for one year should become free.[9]

The Maryland law of 1796, enforced in Washington County, declares that it is not lawful to bring into the State any negro or slave for sale or to reside in the State; any one brought in contrary to this act, if a slave before, shall imme-

[1] Dorsey, *Laws of Md.*, i., 337, 338; Hening, iii., 448.

[2] Maryland, in 1796. Dorsey, *Laws of Md.*, i., 337. Brackett, *The Negro in Md.*, 149, mentions the law of 1752 as the first.

[3] Hening, xi., 39.

[4] Hening, iii., 87, cited by Stroud, *Laws Relating to Slavery*, 99.

[5] Hening, iv., 132. Re-enacted 1748. Hening, vi., 112.

[6] A post-Revolutionary act gave freedom to all slaves who had borne arms in the service of the colonies.

[7] The Virginia constitution, adopted in 1851–1852, provides that emancipated slaves shall forfeit their freedom by remaining in the State more than twelve months after being freed. Stroud, *Laws Relating to Slavery*, 99.

[8] Hening, ix., 471. The fine for importation was £1,000.

[9] Hening, xii., 182.

diately become free.[1] The clause following allows any citizen of the United States with a *bona fide* intention of residing in the State to bring in his slaves within a year after his removal. This, as modified by a congressional enactment, gave opportunity for illegal importation, as a case brought into the Circuit Court shows. In 1835 a petition for freedom states that a resident of Washington, owning slaves in Virginia, hired them in Alexandria County, under the act of May, 1802, with the intent to evade the law of Washington County against importation. The Court instructed the jury that such a proceeding did not authorize the owner to bring the slaves into Washington County to reside.[2] In very many cases of a petition for freedom given in these reports the verdict was for the petitioner. Several cases in which the petitioners asked freedom because sold within three years after being brought into the District were decided favorably to them.[3] The number of attempts to evade the law against importation is surprising.

The Chief-Justice of this court was mildly anti-slavery in his opinions, and his name is among the first on the list of petitioners to Congress in 1828 for gradual abolition of slavery in the District of Columbia. There is no reason for thinking, however, that he showed prejudice in his rulings. On the contrary, there is every evidence of his giving the laws the strictest interpretation. A sketch of his life says: "As Chief-Justice of the Circuit Court of the District of Columbia he has been eminent alike for profound learning and for impartiality and wisdom.[4]

As to whether the law of 1796, prohibiting importation, would prevent the bringing in of slaves from Alexandria County there appears no evidence previous to 1806. At the

[1] Dorsey, *Laws of Md.*, i., 335; *Slavery Code of D. C.*, 3. The provision concerning importation seems to have been disregarded in the history of the District. The committee reporting on Mr. Miner's resolutions in 1829 said there was no law of Maryland in 1800 against the slave-trade.—*Nat. Intell.*, Feb. 7, 1829.

[2] Cranch, *C. C. Reports*, iv., 643.

[3] At the May term, 1828, and others.

[4] *U. S. Law Mag.*, iii., 49.

June term of the court in that year, in Washington County, it was decided that "importation of slaves from Alexandria County is *importation* into Maryland within the meaning of the act of 1796, adopted by the United States February 27, 1801."[1] This was very inconvenient, and after receiving several petitions to remedy it, Congress passed the law of June 24, 1812, by which slaves removed from one county of the District to the other were still slaves, any act passed by the States to the contrary notwithstanding.[2] But this did not permit an inhabitant of Washington County to go to Alexandria and buy slaves to bring to Washington.[3]

Both States provided punishment for the selling of free persons into slavery, but it is questionable if such laws were enforced. Certainly in the District of Columbia there are many instances of open violation of them, and in Washington County particularly they seem to have been disregarded. Sections fifteen and sixteen of the Maryland law of 1796 declare that any person selling or attempting to sell as a slave for life a free negro, or a person bound for a term of years, shall be fined eight hundred dollars.[4]

In Virginia, by a law of 1705, if a free person was imported into the colony and sold as a slave, the seller forfeited "to the party from whom such free person shall recover his freedom" double the sum for which he was sold.[5] An act of 1765 declared that any one selling, as a slave for life, any mulatto or other servant who had but a limited time to serve, must pay fifty pounds to the purchaser over and above the money paid by the purchaser for the same. If he had not the property to pay the fine, he was bound to serve the purchaser as long a time as would have been due by law

[1] Cranch, *C. C. Reports*, i., 316. This decision was reiterated at the December term, 1806.

[2] *U. S. Stat. at Large*, ii., 757.

[3] Cranch, *C. C. Reports*, iv., 642, 643.

[4] Dorsey, *Laws of Md.*, i., 338. Brackett, *The Negro in Md.*, 61, says that the inhumanity to blacks in this matter led to the passing of an act in Maryland, in 1810, forbidding the sale of negroes, slaves for a term of years, to any one who had not been a *bona fide* resident of the State for a year.

[5] Hening, iii., 448.

from said servant.[1] By act of 1788, any one stealing a free negro and selling him as a slave was guilty of felony, and should suffer death without benefit of clergy.[2] The passing of this act seems to indicate that preceding laws had not been effective in preventing the evil. The value set upon a negro's freedom was not high in the popular estimation, and it must have been impossible to enforce so severe a law as this. Whether this was the case or not, after the erection of a penitentiary a more moderate measure was passed. In 1799, any one selling a free negro as a slave for life was to be imprisoned not less than three nor more than eight years.[3]

There seems to have been less injustice under the Virginia than under the Maryland laws. It is a fact that less complaint is made against the Alexandria County laws in Congress and outside than against those of Washington County, and investigating committees have found little or no fault with them. Judging from the court reports, there were fewer violations of them, and we notice fewer petitions for freedom brought up in this county. One reason for these things may be that the Virginia law was more definite; another, that there was a permanent instead of a shifting population as in Washington County, and hence less opportunity for evasions of the law.

In Maryland, by act of 1715, any one not providing sufficient food and clothing for a servant or slave, or excessively beating or burdening him with hard labor, or giving above ten lashes for any one offence, the same being sufficiently proved before the justices of the county courts, might be fined not to exceed one thousand pounds of tobacco.[4] Virginia had similar laws to insure the good treatment of servants and slaves.[5] There are many rumors, though per-

[1] Hening, viii., 133, 134.

[2] Hening, xii., 531.

[3] *Revised Code of Virginia*, i., 387.

[4] Dorsey, *Laws of Md.*, i., 28. This remained in force in the District.

[5] A law of 1748 declares: "All masters and owners of servants . . . shall find and provide for them wholesome and competent diet, cloathing, and lodging, and shall not give immoderate correction."—Hening, v., 548. "And all complaints of servants made to a Justice of Peace shall be by him received, and if, there-

haps no well authenticated account of actual violations of these statutes. Neill makes the statement that indentured servants were often very harshly treated in Virginia.[1] Yet several other authorities make assertions to the contrary.[2] Judging from other things that we do know, it is hard to believe these laws could have been in operation at the time of the greatest severity towards the blacks, or if they were, that it would have been possible to convict an owner of their violation. Since in both States no negro or mulatto slave, and in Virginia no free negro, was permitted to give testimony in cases where whites were concerned, it would be necessary that a free man—in Virginia a white man—should witness the ill-treatment of a slave. Practically there was little danger that a master would suffer for misdeeds of this kind, unless his acts were atrocious enough to arouse his white neighbors and were committed openly.

The power of a master in the District over his slaves may be inferred from the admission of a writer on the Virginia law relating to slaves in 1832. The slaves "may be made to work at the pleasure of the master (except on Sundays) and have no legislative protection, either for the sufficiency of their food, the durability of their raiment, or the comfort of their dwelling-houses."[3] A few cases from which we may draw inferences of ill-treatment are mentioned in the records.

upon, he shall see cause, he may bind over the master or owner to appear before the next court held for his county, to answer such complaint, where the cause shall be heard and determined."—Hening, v., 549. These provisions were evidently intended for the benefit of slaves. Substantially the same laws were re-enacted, 1753.

[1] Neill, *Virginia Carolorum*, 58.

[2] "The work of their servants is none other than what every common freeman does; neither is any servant required to do more in a day than his overseer; and I can assure you, with great truth, that generally their slaves are not worked near so hard, nor so many hours in a day, as the husbandmen and day laborers in England."—Beverly, *Hist. of Va.*, 220. "You may find that the cruelties and severities imputed to the country are an unjust reflection. For no people more abhor the thoughts of such usage than the Virginians, nor take more precautions to prevent it."—Beverly, *Hist. of Va.*, 222.

"The labor of the redemptioners, according to the testimony of one of them, was not severe."—Browne, *Maryland*, 180.

[3] *Amer. Jurist*, vii., 12.

In Alexandria County it was decided in 1823 that to "cruelly, inhumanly, and maliciously cut, slash, beat, and ill-treat one's slave was an indictable offence,"[1] while in 1834 that simple assault and battery on a slave was not indictable.[2] In Washington County, as early as 1806, in a similar case, the Court held that the property which a man has in his slave, unlike that he has in his horse, is simply a right to his perpetual service, hence beating is an indictable offence.[3] Another Southern writer on Virginia law has said that "a slave has no peculiar protection in Virginia; indeed, no protection whatever, except so far as the capital crime of murder or mayhem might be brought home to his master, on condition that both the testimony be furnished, and the prosecution originated by white persons."[4] Hening gives, among the laws of Virginia for 1668, one permitting moderate corporal punishment by the master, for running away.[5] A law of 1668, entitled "An act about the casuall killing of slaves," declares that if the slave shall die from the correction, the master shall not be considered guilty of felony[6]; and one of 1723 decrees that no person concerned in the correction shall undergo punishment for the same.[7] By act of 1788 this was repealed.[8]

As to the value of the testimony of negroes and slaves in courts of law, the practice differed in the two counties. By the Maryland law of 1719, no negro or mulatto, whether bond or free, was admitted as a witness in cases where a free white man was concerned; but in the absence of other tes-

[1] U. S. *vs.* Robt. Brockett, Sen., Cranch, *C. C. Reports*, ii., 441.

[2] U. S. *vs.* H. Lloyd, Cranch, *C. C. Reports*, iv., 468.

[3] U. S. *vs.* Isaac Butler, Cranch, *C. C. Reports*, i., 373.

[4] E. A. Pollard, in *The Galaxy*, vol. xvi.

[5] Hening, ii., 266.

[6] "If any slave resist his master (or other by his master's order correcting him) and by the extremity of the correction should chance to die, that his death shall not be accompted ffelony, but the master (or that person appointed by the master to punish him) be acquit from molestation, since it cannot be presumed that prepensed malice (which alone makes murther ffelony) should induce any man to destroy his own estate."—Hening, ii., 270.

[7] Hening, iv., 133.

[8] Hening, xii., 68.

timony against a negro or mulatto, that of a negro might be heard as evidence according to the discretion of the magistrate, provided such evidence did not extend to the depriving of life or limb.[1] In Washington County the admission of slaves as witnesses seems not to have been the uniform practice.[2] Free negroes and mulattoes [3] not in a state of servitude by law were admitted in all cases—that is, were regarded as whites. Manumitted slaves were not admitted against a white person,[4] but were admitted for or against a free mulatto.[5]

In Alexandria County slaves were allowed to testify for or against free negroes or mulattoes,[6] but rejected as witnesses for or against whites.[7] The practice, as we can see, was

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[1] Dorsey, *Laws of Md.*, i., 46, 47. The words of the law are: "No negro or mulatto slave, free negro or mulatto born of a white woman, during his time of servitude by law, or any Indian slave or free Indian natives, be admitted and received as good and valid evidence in law, in any matter whatsoever depending before any court of record, or before any magistrate within this province, wherein any Christian white person is concerned." "When other sufficient evidence is wanting against any negro or mulatto slaves, free negroes, or mulatto born of a white woman, during their term of servitude by law, in such case the testimony of any negro or mulatto slave, free negro or mulatto born of a white woman, may be heard and received as evidence, according to the discretion of the several courts of record, or magistrate . . . provided such evidence do not extend to the depriving them of life or member."—Stroud, *Laws Relating to Slavery*, 22.

[2] In 1806 slaves were admitted to testify for free negroes in a criminal prosecution (U. S. *vs.* Wm. Shorter, Cranch, i., 371); and in an assault and battery (U. S. *vs.* Terry, Cranch, i., 318); but in 1803 they had been rejected as witnesses in a case of theft (U. S. *vs.* Nancy Swann, Cranch, i., 148), and again in 1808 and in 1829, in cases against free mulattoes (U. S. *vs.* Peggy Hill, Cranch, i., 521; and U. S. *vs.* Charity Gray, Cranch, iii., 681), and in 1813 in a capital case against a free black (U. S. *vs.* Minta Butler, Cranch, ii., 15).

[3] There is a case in which free negroes and mulattoes not born of white women were decided not competent witnesses against free negroes and mulattoes not in a state of servitude.—U. S. *vs.* Beddo and Hanson, Cranch, *C. C. Reports*, iv., 664.

[4] U. S. *vs.* Christopher Minifie, Cranch, *C. C. Reports*, ii., 109; in 1814.

[5] U. S. *vs.* Barton, Cranch, *C. C. Reports*, i., 132; in 1803.

[6] U. S. *vs.* Betty Bell, Cranch, *C. C. Reports*, i., 94; also U. S. *vs.* Joseph Farrell, v., 311.

[7] U. S. *vs.* James Birch and others, Cranch, *C. C. Reports*, iii., 180; also Pipsico *vs.* Boutz *et al.*, iii., 425.

more liberal in Washington than in Alexandria County. In Virginia an early law allowed no negro, slave or free, to be a witness except in the trial of a slave for a capital offence.[1] The law in operation in 1801 accepted the testimony of slaves in criminal cases against negroes, and in civil cases where only negroes were concerned.[2]

Passing to the laws regarding the punishment of various offences among slaves, we find that while they have been modified somewhat since the earlier times, they are still severe, and in some cases in direct conflict with laws intended for the protection of slaves. Minor offences like stealing, house-breaking, etc., were punished with death. On account of this severity many sought to evade the laws, or to have the offence pardoned, when the execution of the sentence would cost the life of a valuable slave. Youth, previous good conduct, evil associations, or value of the slave, sometimes the severity of the laws themselves, would be urged in an appeal to the Governor for clemency.[3] Some of these laws are simply barbarous. A Maryland statute of 1723 declared cropping to be the penalty for striking a white man. Maryland repealed this law in 1821 ; it remained among the District laws till the general repeal in 1862. A Virginia law made thirty lashes the penalty for the same offence.[4] The penalty in Maryland for false witness was, on the day of conviction to have one ear cropped and receive thirty-nine lashes on the bare back, and the next day to have the other ear cropped and again receive thirty-nine lashes.[5] The law of Virginia was similar, the chief difference being that the prisoner's ears were nailed to the pillory before

[1] In 1732, Hening, iv., 327.

[2] Hening, xii., 182.

[3] August 12, 1787, Samuel Kello interceded for a slave under sentence of death for stealing thirty-five pounds of bacon, and speaks of the theft as a trifling one, and of the laws as rigorous,—almost unjust. He wishes that something short of death were substituted for small crimes, and that in the trial of slaves the pregnant circumstances *might not be permitted to condemn a black man more than a white one.*—*Vir. Cal. of State Papers*, iv., 332.

[4] Hening, ii., 481.

[5] Law of 1751, Dorsey, i., 92.

cropping. The punishment for arson was infinitely worse in Maryland. Slaves could be convicted of a capital crime on the testimony of free or slave negroes, "without the solemnity of a jury" [1]; but a law in force in 1792 declared that sentence of death should not be pronounced unless four judges should concur.[2]

It is claimed that no attempt was made to enforce many of these laws, as public opinion would not sanction it. A Southern writer says many of them "have remained for years without a victim, and the sharp edge of their severity is blunted by the force of public opinion." [3] We can see in the early part of this century a tendency on the part of the States, particularly Maryland, to adopt milder measures; many of the old barbarities were abolished. The District, unfortunately, could not be benefited directly by these changes, and Congress was not interested in the evolution of State laws.

Aside from those passed by the city corporations, the laws that worked the greatest actual injustice in Washington County were those against runaways. Both in Maryland and in Virginia any servant or slave travelling a certain distance from home, was required to have a pass from the master or the overseer. In Maryland, any stranger, servant or free man, might be examined by any citizen of the province, and if his answers were not satisfactory, might be taken before a Justice of the Peace.[4] Both States also enacted that every free negro must receive a certificate of freedom, and if travelling from home and not having a pass, must be able to produce the certificate as evidence that he was not a runaway. It was natural then to suppose every negro without a pass or unable to show a certificate of freedom to be an absconding slave. In both colonies the earliest laws for runaways were intended to apply to white servants probably, since all made the penalty an extension of the time of service. One of

[1] Law of 1723. Hening, iv., 127. Before that a jury had been necessary.
[2] Hening, viii., 523.
[3] *Am. Jurist*, vii., 17.
[4] *Archives of Md.*, i., 451.

the earliest in Maryland, however, provided the death penalty with possibility of pardon by Lord Baltimore or his Lieutenant. In Virginia, by laws of 1661 and 1662,—and the law of Maryland at that time was similar,—if a white servant ran away with negroes, he was obliged to make up the time lost by himself and by the negroes also.[1] A law of 1672 declares that a runaway slave resisting arrest may be killed, and the person killing shall not be questioned for the same. The value of the slave shall be paid by the public.[2] An outlawed slave, by a later law, might be killed by any person, in any manner, and the latter was not in danger of prosecution.[3] Both of these laws, as they were passed very early, may have been repealed before 1801.

The Maryland law, though not quite so bad, also treats the runaway as a criminal. Since runaway slaves absent themselves from their masters' service, remaining in the woods "killing and destroying of hogs and cattle belonging to the people of this province," if such negro shall refuse to surrender to such as pursue to take him up, "being thereunto legally empowered, it shall be lawful for such pursuers to shoot, kill, and destroy such negro or slave."[4] A law of 1753 declared that the officer so killing a slave should be obliged to undergo trial, and if it appeared from the evidence that the killing was done in execution of this act, the officer should be acquitted.[5] By the act of 1715 any person whatsoever travelling out of his county without a pass, may be apprehended as a runaway, and if not sufficiently known or able to give a good account of himself, "it shall be left to the discretion of the magistrate before whom he is brought" to judge thereof; and if he be deemed a runaway, "he shall

[1] Hening, ii., 26, 117.

[2] Hening, ii., 299.

[3] Hening, iii., 460.

[4] Dorsey, *Laws of Md.*, i., 65. The law was passed in 1723. Wilson, *Rise and Fall of the Slave Power*, refers to it, but gives the impression that the law was more unreasonable than I understand it to have been, perhaps through confusing it with the one in Alexandria County.

[5] Dorsey, *Laws of Md.*, i., 101. Mr. Wilson seems to have overlooked this law entirely. It is quoted by Brackett, *The Negro in Maryland*, 76.

suffer such penalties as are provided against runaways." Persons taking up runaways received a reward of two hundred pounds of tobacco, paid by the master. If the prisoner was found not to be a servant, and yet refused to pay the reward himself, he was compelled to make satisfaction by service "as the justices of the provincial and county courts shall think fit."[1] If the person taken up is a negro or mulatto, an act of 1719 orders that, after sufficient notice is given by the sheriff, "if the master do not appear within the time limited as aforesaid and pay all such imprisonment fees due to the sheriff, . . . and also all such charges as have become due to any person for taking up such runaway, such sheriff," after notice to that effect is given, shall "proceed to sell and dispose of such slave to the highest bidder; and out of the money which such servant is sold for, to pay himself all such imprisonment fees as are his just due for the time he has kept such servant, . . . and also to pay such charges, fees, or reward as has become due to any person for taking up such runaway."[2] Mr. Dorsey of Maryland in 1826 said in the House that a Maryland law allowed negroes proved free to be *sold* for the jail fees.[3] That express provision does not appear in the laws of Maryland, though it is clear that such a result might follow from the above laws. There seems to be no repeal of either of these statutes; hence they must furnish the ground for the practice in Washington County of selling for jail fees negroes proved to be free. The following is to be found in the reports of the Circuit Court for the District of Columbia, on the acts of 1715 and 1719. In response to the question whether the jail fees could be charged to the county, Chief-Justice Cranch says: "None of the laws of Maryland authorize the sheriff to charge the state or the county with the main-

[1] Dorsey, *Laws of Md.*, i., 26; *Sl. Code of D. C.*, 21. Bacon, *Laws of Md.*, 1715, ch. xliv., sec. 20. In 1817 Maryland made the fees payable by the county.

[2] *Slavery Code of D. C.*, 23, 24.

[3] By a law of 1802, quoted by Brackett, no servant or slave thus sold might be carried out of Maryland within two years.

tenance of persons committed as runaways. If the person committed be a servant, the fees are to be paid by the master, or by prolonged servitude of the servant; if he be a slave the fees are to be paid by the owner; or by the sale of the slave; but if he be neither servant nor slave, and consequently not a runaway, the 34th section impliedly subjects him to servitude to the sheriff or his assigns for imprisonment fees, and to the taker up for the reward, but gives no authority to charge the state or the county with those fees."[1] Mr. Dorsey, in the statement given above, shows what custom probably had made a law in the absence of a distinct legal enactment. Certainly as the negro or mulatto could not be released at the end of six months, and permitted to work out his imprisonment fees, and as it could not reasonably be expected that the prisoner would be discharged without the fees being provided for, there seems to have been no other disposition of the free negro possible under the law. At the time this was enacted there was no law for emancipation, though the courts recognized the validity of manumissions made voluntarily by masters. The legal presumption therefore that every negro was a slave was strictly logical. Whatever the practice in Maryland, it is certain that in Washington County the failure of a negro to pay imprisonment fees might lead to his sale as a slave for life.

It seems that February 5, 1819, in the Senate Mr. Forsyth of Georgia moved that the Committee on the District of Columbia be instructed to inquire into the expediency of amending the laws existing in the District regulating the seizure and sale of persons of color suspected to be runaway slaves. March 2d, the committee asked to be discharged from further consideration of the resolution, and on motion of Mr. Goldsborough of Maryland they were discharged. No reason for this action is stated.

The case of Gilbert Horton is several times referred to in the course of congressional debates on the subject. This

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[1] Cranch, *C. C. Reports*, iv., 495. The inference might be that there is no authority for the sale of a free person into *perpetual* slavery.

Gilbert Horton was a free negro who came from his home in New York to Washington on business, in 1826. He was arrested as a runaway and kept in jail until he could obtain evidence in New York that he was free. Even then he was advertised to be sold for jail fees. The Governor of New York, it is said, being interested in the matter on behalf of a citizen of his own State, opened correspondence with the President, and the latter interfered and gained him his release. This is the account as given by most of those referring to it. The Committee, reporting on the case the next year, says: "It appears by the warrant of commitment furnished to the committee, and by the affidavits of John Edds and A. K. Arnold, the latter a police officer, that on the 22d day of July last, Gilbert Horton was about the wharves of Georgetown, a strange negro, without any evidence of his being a free man. . . . He was accordingly apprehended as such, [a fugitive slave] carried before James Gettys, a justice of the peace, who, after due investigation committed Horton as a runaway, by his warrant. The officer, and other persons in the district, immediately opened correspondence with persons named by Horton, residing near Peekskill, N. York, to ascertain the fact of Horton's right to freedom. Upon producing evidence of the fact, Horton, by a warrant from the mayor of Washington, dated the 28th of August last, was discharged, after a confinement of twenty-six days, without being subjected to any charge or expense. It appears that on the 21st day of October last, Horton was again suspected of being a fugitive slave, and apprehended; but was, on the same day discharged, . . . and is now enjoying an uninterrupted residence within the District of Columbia."[1] This occurrence led to the introduction into the House in December, 1826, by Mr. Ward of New York, of a resolution "that the committee on the District of Columbia be directed to inquire if there is in force in the District any law authorizing the imprisonment of a free man of color and his sale for jail fees and other charges. And if so, to

[1] *Niles' Register*, xxxi., 345.

inquire into the expediency of repealing the same."[1] The discussion that followed became somewhat warm, but the resolution passed "by a large majority." In January, 1827, Mr. Powell, the chairman of the committee, read the report, in which was affirmed the existence of such a law. The committee said that "although Congress has, by the constitution, exclusive jurisdiction over this district, and has the power upon this subject, as upon all other subjects of legislation, to exercise unlimited discretion, the committee do not feel themselves warranted in recommending the abrogation of the legal presumption within the District of Columbia." They also believed the provision, requiring sale for jail fees, to be obsolete, "no instance having ever occurred in the district, of the sale of free persons of color under this law."[2] They considered that "justice demands an alteration of the law in Washington County," however, and accompanied the report with a bill providing that in case a negro arrested and imprisoned as a runaway was proved free, the jail fees and other legal charges should be paid by the county or the city, and that so much of the law regarding runaways as authorized the sale of a negro for jail fees should be repealed.[3] This provision of the law may have become "obsolete," and there is the barest possibility, though some evidence to the contrary has been furnished, that no instance of the kind ever occurred, but members of Congress generally knew, as well as did the committee, that there was in the law as it existed absolutely no provision for the payment of imprisonment fees in such a case, and that if the marshal was too humane to sell the free negro, he must in every instance have shown his humanity at a pecuniary sacrifice. The bill was made the order for the next day, but seems not to have

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[1] Benton, *Deb. in Cong.*, ix., 359.

[2] *Niles' Register*, xxxi., 344, 345. This authoritative statement did not deter the inhabitants, petitioning for gradual emancipation in 1828, from citing an instance of this sort in the petition.

[3] Benton, *Deb. in Cong.*, ix., 375. A memorial from citizens of Georgetown was read in Congress, objecting to the bill, so far as it made the fees payable by the city.

come up. In the next session, Mr. Weems of Maryland, who acted on this committee, says it is still lying on the table. February 1, 1828, Mr. Varnum presented a similar bill, which, however, made the fees payable by the United States.[1] The bill was read twice and committed. May 21st, Mr. Ward moved that the Committee of the Whole be discharged from further consideration of it; in the preceding session, the Committee on the District of Columbia had reported favorably on such a bill, but owing to the press of other business there was no time to act on it. The same committee had reported this bill, and unless his motion should prevail, it could not be passed at this session. The motion was lost.[2]

From 1825 onwards, it was a constant complaint that the practice of convicting negroes as runaways, except when they produced evidence to the contrary, made it unsafe for a free negro to go to Washington. Those in the District, and those from Maryland and Virginia, where certificates of freedom were required by law, and where records of the certificates issued were kept also, were less likely to suffer from the injustice. But one from a Northern State, who had always been free, and who at home needed to carry with him no evidence of his freedom, was almost certain to be picked up by one of the numerous slave-traders that infested the District, and sold into perpetual bondage. Several cases of this kind were cited in the course of the debates, but it was said that such laws were necessary to protect the property of slave-holders; in the slave States, the legal presumption was that every colored person was a slave, and that such a person going at large, unless able to give proof of his freedom, was a runaway.[3] The committee that reported this considered such a presumption essential to the rights of slave-holders. Though reporting on Mr. Ward's resolution occasioned by the wrong to Gilbert Horton, they declared their belief that "such an event [as sale of a free negro for

[1] *Nat. Intell.*, Feb. 2, 1828.

[2] *Nat. Intell.*, May 22, 1828.

[3] Report of the Committee on the District of Columbia, January 11, 1827.

jail fees] was beyond all rational probability." Perhaps members of Congress then could hardly be expected to read the newspaper advertisements. If they had done so, the committee might have seen frequently in the papers descriptions of prisoners, even if not proved free, yet held as runaways on a different principle from that observed in the adjacent States.[1] Thus: "The above described Negro Boys say they were born free, that their mother's name is Lucretia Henson, now living in Camden Street, three doors from Sharp Street, Baltimore. The owner or owners of the above described Negro Boys, if any, are requested to come and prove them, and take them away, or they will be sold for their jail fees and other expenses, as the law directs. Signed, C. Tippett, for Tench Ringgold, Marshal."[2]

That the local magistrates were, to a certain extent, responsible for this wrong is indisputable. In giving his opinion on the Runaway Law, Judge Cranch says: "In point of fact, I believe there have been few, if any *legal* commitments of persons as runaways. I do not remember to have seen one [warrant] which would, in my opinion, justify the marshal in retaining the prisoner. The judge does not state that he has good cause, supported by oath, to believe that the person is a servant or slave, or even that he has adjudged him to be a runaway. I imagine the justice must have examined the evidence . . . and must be satisfied by testimony upon oath, or solemn affirmation, that the person really is a runaway."[3]

In 1837 a case was actually brought into the Circuit Court. William Richardson was committed by a warrant issued by a justice of peace directed to the marshal, stating that, whereas F. B., the constable, had apprehended and brought before him the negro William Richardson, "charged with

[1] At this time in both Maryland and Virginia negroes taken up as runaways but not claimed by their owners, were discharged.

[2] Taken from the *National Intelligencer* for March 3, 1825. In the course of my search through the newspapers for other facts, I have noticed many advertisements of this kind.

[3] Cranch, *C. C. Reports*, iv., 498.

being a runaway; and whereas, no proof has been adduced before me that the said William Richardson is not a runaway, you are hereby commanded to receive into your jail and custody the said William Richardson, and him safe keep until he be thence delivered by due course of law." The court ordered the prisoner to be discharged, because the warrant of commitment was insufficient, and because they were satisfied he was not a runaway.[1]

But where the laws are so notoriously and shamefully unjust, and yet are not amended by the Legislature, it is not to be expected that the officers appointed under them will repair the injustice which may be made a source of profit to them. The officers, indeed, were often in league with the slave dealers.[2] The influence of white persons was not always sufficient to delay the sale of a negro, even when they offered to be responsible for the jail fees.[3] Once sold to a dealer, all hope was lost, for the officer would not, or could not, force the man to delay exporting the slave, if he saw fit to do so. The stronger the likelihood that the negro might be proved free, the greater the necessity for hurrying him away before such dangerous evidence could be brought into court.[4] Slaves having but a limited time to serve were in quite as unfortunate a position. A dishonest master could easily have such a slave taken up as a runaway. No one appearing to prove the contrary, the slave could be sold, probably to the master or to a dealer in collusion with him,[5] or if the title to freedom was proved, sale for jail fees might follow.

[1] The counsel for the plaintiff contended that the Maryland law against runaways could not apply to negroes taken up as runaways in the District of Columbia, since made in 1715 for servants "by indenture," "by custom of the country," or "servants for wages." Justice Morsell doubted whether the law of Maryland was applicable to the District. C. J. Cranch gave no opinion on that point. Negro Richardson's case, Cranch, *C. C. Reports*, v., 338–343.

[2] *The Genius of Universal Emancipation* for February, 1831, p. 175, mentions an instance of this kind.

[3] Benton, *Deb. in Cong.*, x., 308.

[4] Torrey, *Portraiture of Domestic Slavery*, 49, 50, note.

[5] Mr. Miner refers to a possible case of this kind. Benton, *Deb. in Cong.*, x., 309.

Another shameful practice, which long was carried on with impunity in the District, was that of stealing free negroes and selling them to traders to be carried South. The convenience of the District as a rallying point from the Northern slave-breeding States, had led to the establishment of slave markets here, and especially in the city of Washington. Private or secret prisons were numerous, and frequently the public jails [1] were used for the safe-keeping of such negroes as had been collected for transportation South. From the District, and from the neighboring States of Delaware, Maryland, and Virginia, even from the more northern States, negroes known to be free were seized and brought to these private prisons, where they were kept till a cargo could be collected for the Southern market. Much was said and written against this practice, but the laws, if laws against it were recognized, were not enforced, and the attention of Congress was repeatedly called to the matter in vain. A pamphlet published in Philadelphia in 1817 relates a number of instances of precisely this sort. The author, describing a visit to Washington, says: "I soon ascertained that several hundred people, including not legal slaves only, but many kidnapped freemen, and youth bound to service for a term of years, and unlawfully sold as slaves for life, are annually collected at Washington for transportation to the slave regions." [2] "These facts clearly exemplify the safety with which the free-born inhabitants of the United States may be offered for sale and sold even in the metropolis of liberty, as

[1] Torrey, *Portraiture of Domestic Slavery*, 41.

[2] Torrey, *Portraiture of Domestic Slavery*, 47. The author tells of a young mulatto bound as an apprentice in Delaware enticed into the fields, seized, and taken to Maryland, where he was sold to a dealer who brought him to Washington,—p. 47. Another, a boy of sixteen, was sold as a slave by the man to whom his father had apprenticed him,—p. 48. A young woman was dragged from her room at night, and sold to a dealer who brought her to Washington,—pp. 48, 49. These three were set at liberty through the efforts of Mr. Torrey.

In 1831 Benedict Harper was taken by slave-dealers and a constable, on a charge of theft, and carried to a slave prison instead of before a magistrate. He learned that he was to be taken South the next morning, and succeeded in making his escape from the third-story window of the jail.—*Gen. of Univ. Emanc.*, February, 1831, 175.

oxen, even to those who are notified of the fact, and are perhaps convinced of it, that they are free."

In 1831 Congress passed a law to prevent the abduction and sale of free persons into slavery. It provided that if any free person unlawfully carried away by force or violence any free person, or by fraud persuaded him to go from one place in the District to another, with the design of disposing of him to be sold as a slave for life, he should, on conviction, be punished by a fine not exceeding five thousand dollars and imprisonment not exceeding twelve years.[1] One case at least under this law was brought into court,—that of a white man who brought a free negro boy into the District from Virginia. The case was decided against the defendant, and a motion for a new trial being overruled, he was sentenced to one year's imprisonment.[2] So there was an attempt to enforce this law.

Not until twenty years after this was the slave-trade in the District prohibited, and then only in accordance with the compromise of 1850. In fact, there seems to be no congressional enactment whatever referring directly to the slave trade at the seat of government. We know from the statements of men of the time, that almost from the first it had a foothold here. As early as 1802 the grand jury of Alexandria County complained of it.[3] Later Judge Morsell noticed

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[1] *Stat. at Large*, iv., 450.

[2] Judge Thruston dissented. The defendant claimed that the term "free person" of the statute referred to a free negro, since *all* white persons are free. It was afterwards claimed by the defendant that the statute was intended to apply only to free negroes in the District, and not to one brought in from a neighboring State. Case of U. S. *vs.* Washington Henning. Cranch, *C. C. Reports*, iv., 645–658.

[3] "We, the Grand Jury for the County of Alexandria in the District of Columbia, present as a grievance the practice of persons coming from distant parts of the United States into this District for the purpose of purchasing slaves, where they exhibit to our view a scene of wretchedness, and human degradation disgraceful to our characters as citizens of a free Government. . . . We consider it a grievance that citizens from distant parts of the United States should be permitted to come into the District and pursue a traffic fraught with so much misery to a class of beings entitled to our protection by the laws of justice and humanity. . . . We consider those grievances demanding legislative redress;

it in his charge to the grand jury of Washington County.[1] In 1816 John Randolph became very indignant at the sight of the gangs of slaves daily marched through the streets of the capital. He said such "proceedings were a crying shame before God and man, a practice which was not surpassed for abomination in any part of the earth; for in no part of it, not even excepting the rivers on the coast of Africa, was there so great, so infamous a slave market, as in the metropolis, in the seat of government of this nation which prides itself on freedom." He moved that the Committee on the District of Columbia make inquiries concerning the existence of an "inhuman and illegal traffic in slaves carried on in and through the District," and report on the expediency of its abolition. The matter was finally referred to a select committee[2] consisting of Mr. Randolph, Mr. Goldsborough of Maryland, Mr. Kerr of Virginia, Mr. Hopkinson of Pennsylvania, and Mr. Mayrant of South Carolina,—all but one Southern men. The next day the chairman obtained permission to send for papers and persons necessary for making the inquiry. Late in the session the committee "reported various testimony collected, but made no other report of facts or opinions." The report with the papers was laid on the table. The extent to which the slave-trade was carried on was well known,—not even the traders themselves tried to keep it secret. A letter of January 23, 1834, from Rev. Mr. Leavitt states that he has visited the slave factory of Franklin and Armfield at Alexandria, and was "informed by one of the principals that the number of slaves carried from the District last year was about one thousand, but it would be much greater this year. He expected that their house alone would ship at least eleven or twelve hundred."[3] In 1830 Lundy's paper had stated

especially the practice of making sale of black people, who are, by the will of their masters designed to be free at the expiration of a term of years."—Benton, *Deb. in Cong.*, x., 309.

[1] Goodell, *Slavery and Anti-Slavery*, 244.

[2] The regular committee appearing unwilling to serve, Mr. Randolph signified his readiness for that duty.

[3] Jay, *Miscellaneous Writings*, 157.

that the net profit of this firm for the preceding year was thirty-three thousand dollars.[1] A charter granted to the corporation of Washington in 1820 gives the city power to grant licenses for certain things.[2] By a corporation law of 1831 a license to traffic in slaves was made necessary, and could be obtained by the payment of four hundred dollars.[3] After 1831 there is less said in Congress about the slave-trade, though its abolition is one of the things petitioned for constantly up to 1850.[4]

The codes submitted in 1818 and 1857, though never adopted, may be taken as fairly representative of the popular mind at their respective periods. Both afford ample security to the slave-owner, and both do away with the barbarous laws against blacks. The earlier one is especially favorable to the negro, though from it seem to have been taken several provisions found in the later system. It provides for the erection of a penitentiary and the adoption of a new system of penalties. This work had been accomplished when the code of 1857 was prepared. Both codes forbid the introduction of slaves into the District, both forbid the slave-trade, and both make kidnapping punishable by heavy fine and long imprisonment.

The code of 1818 gives the negro the privilege of *habeas corpus*, and of a free man's trial for any offence pending the decision of his right to freedom. It also punishes the masters for ill-treatment of the slave. It declares that there shall be no capital punishment, and that if a slave commit any crime for which a free man is punished by solitary confinement or imprisonment at hard labor, he may be sentenced to solitary confinement as long as the court thinks fit. The lesser crimes are punished by lashes not to exceed forty for any one offence. Free negroes and manumitted slaves are admitted as witnesses in all cases as if white. Slaves may

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[1] *Gen. of Univ. Emanc.*, Jan. 22, 1830.

[2] The trade in slaves is not mentioned.

[3] *Corporation Law of Washington*, 1831, 7.

[4] As late as 1848 the matter is referred to Congress by citizens of Washington. *Nat. Era*, May 3, 1849.

testify in the prosecution of negroes for crime, or in civil cases where only negroes are parties. If a negro taken up as a runaway is proved free he is discharged; if unable to prove his freedom, he is sold as a slave, but is not warranted to be a slave, and the sale does not prejudice his claim to freedom, if he have any claim.

The code of 1857 provides that in cases of crime the slave shall have the same punishment as the free man, except that where fine is given stripes may be substituted for the fine. A negro taken up as a runaway slave is discharged if he proves his freedom; if not, he is to be advertised, and if not claimed after a certain period, is released.

The city corporations were fully empowered by Congress to pass all laws necessary to make up any deficiencies in the tyranny of the system over the blacks. If they did not do so, the credit does not belong to the nation. The charter granted to the city of Washington in 1820 gave, among other enumerated powers, the right to prescribe the terms and conditions on which free negroes and mulattoes may reside in the city;[1] also to restrain and prohibit nightly and other disorderly meetings of slaves, free negroes and mulattoes, and to punish such slaves by whipping not exceeding forty stripes, or by imprisonment not exceeding six months;[2] and to punish such free negroes and mulattoes by penalties not exceeding twenty dollars for any one offence.[3]

The city in 1821 prescribed the terms on which a free negro or mulatto might reside in the city. He must, within thirty days after receiving notice to that effect, present before the Mayor papers proving his freedom, which must also state his occupation and whether he had a family. He must present, in addition, a satisfactory certificate signed by three white men residing in his neighborhood, and known to the Mayor as responsible parties, to prove that he was honest, industrious, etc., and kept a quiet, orderly house. On failing

[1] *Statutes at Large*, iii., 588.

[2] Perhaps a model for this was found in an act of Maryland in 1723, which is quoted by Brackett, *The Negro in Maryland*, p. 100.

[3] *Statutes at Large*, iii., 588.

to bring the evidence required by this law, he might be sent to jail and dealt with *after the manner of absconding slaves.*[1] If a free colored person wished to have a meeting or a ball at his own house, he must gain special permission from the Mayor.[2] Any negro on the street after ten o'clock at night, except with a pass from a justice of the peace or a respectable citizen, was arrested and locked up.[3] This is sufficient to show the general character of the city legislation, which, within its limits, was nearly as oppressive, though not quite so inhuman as the other.[4]

But while we are concerned now with the Black Laws alone, it is well to remember that these were not the only ones that belonged to a past age. Very many of those applicable to whites were proportionately severe and unreasonable. Yet Congress was not totally blind to their defects. The Penitentiary Act, passed May 20, 1826, providing for the erection of a penitentiary in the District of Columbia, must be acknowledged to have begun a work of considerable importance in restoring the moral credit of that body. As a consequence of this act was passed the law of March 2, 1831, which fixed the penalties for certain offences in fines and imprisonment. Thus many of the revolting features of the old colonial laws, which had been retained years after Maryland and Virginia had abandoned them, were swept away. The proviso, "That this act shall not be construed to extend to slaves,"[5] would imply that it did extend to free blacks. It is a discredit to the two States to

[1] *Corporation Laws*, 1820-21, 153. The main features of this law remained till 1862, though subsequent ordinances increased some of the requirements.

[2] In force in 1862, *Slave Code of D. C.*, 31.

[3] In 1838 it was decided by the Circuit Court that this right came under the power to restrain and prohibit nightly and other disorderly meetings.

[4] Wilson, *Rise and Fall of the Slave Power*, mentions several other provisions of the municipal code. For violating the law against secret meetings in 1855 four free men were sent to the workhouse, one slave received six lashes, and the remaining twenty paid the fine of $5.58 each. The object of the meeting was proved to be the raising of money to purchase a young woman whose owner was willing to sell. The Bible, Seneca's *Morals*, and *Life in Earnest* were books found in the possession of the prisoners.—*Nat. Era*, April 19, 1855.

[5] *Statutes at Large*, iv., 450.

have kept such laws on their statute-books so long, even if they were a dead letter. It is a positive shame to the United States to have adopted and retained them, even though there could not have been a "rational probability" of their being enforced, when the crying need for effective laws was brought before its Legislature at every session. That, after this step towards reform in 1831, after all the attempts in Congress to repeal them, such of these laws as applied to slaves even should still have been retained, must be remembered to the dishonor of our nation.

In both counties, then, laws concerning indentured servants were applied to slaves, probably until the latter became the more numerous class. An increasing severity of the measures may be noticed during the change from the system of indentured service to that of slavery. By the laws of 1782 and 1796, in Alexandria and Washington counties respectively, emancipation was allowed, and by the acts of 1799 and 1796 the sale of free persons was prohibited. The laws of both counties provided for protection of slaves from abuse, but by refusing to admit slaves as witnesses against whites annulled these provisions. In Alexandria County the runaway was outlawed, and might be killed on refusing to surrender. In Washington County a negro proved free might be sold for jail fees. The kidnapping and sale of free negroes at the capital, though prohibited by the Washington law, went unpunished until 1831. Until 1850 the capital was one of the chief Northern markets for slaves.

The disgrace of these things was recognized by both North and South, and by none did they seem to be more deeply deplored than by the inhabitants of the District themselves. But the only body empowered to alter them, the servants of the nation, could spend no time on such matters, since the questions of lighting the streets and regulating the police of Washington must be settled; so, according to law, free men must continue to be sold, and negroes must continue to lose their ears, and to be hanged, beheaded, and quartered in the American republic through more than half of the nineteenth century.

IV.

THE STRUGGLE FOR ABOLITION.

Before the War of Independence it was the prevailing opinion among the colonists that, if allowed by the mother country to do so, the colonies would abolish slavery, In the first draft of the Declaration of Independence, His Majesty, King George, was charged with selfishly working injury to the colonial interests and character by refusing to allow a prohibition of slave importation.[1] Virginia, at least, was honest in her desire to place a check upon the traffic, and after forming her independent government, in 1778,[2] she did forbid the slave trade. Maryland, a few years later, passed a law for the same purpose. It would appear that the weight of public opinion in Maryland and in Virginia was against slavery, and certainly their greatest statesmen were opposed to it.[3] One of the most radical of anti-slavery ora-

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[1] A more extended treatment of this portion of the subject than is possible here may be found in *Anti-Slavery Opinions before 1800*, by Wm. F. Poole.

[2] Jefferson, in *Virginia Notes*, places it earlier than this.

[3] Scharfe, *History of Maryland*, iii., 310. Luther Martin in the Constitutional Convention was the first to propose a prohibition of importation, *ib.*, 296. In 1778 Mr. Pinkney had said: "By the eternal principles of natural justice, no master in the state has a right to hold his slave in bondage a single hour."—Goodloe, *The Southern Platform*, 60. In the Virginia Convention Patrick Henry expressed himself unmistakably on the subject.—*Elliott's Debates*, Virginia, 590, 591. George Mason, in reference to the slave-trade, says: "The augmentation of slaves weakens the states; and such a trade is diabolical in itself and disgraceful to mankind."—*Elliott's Debates*, Virginia, 452. Quoted by Poole, *Anti-Slavery Opinions before 1800*, 35.

"The northern states were not so strenuous in opposition to this clause [permitting the trade till 1808] as Virginia and Maryland."—Poole, *Anti-Slavery Opinions*, 70.

tions was delivered at Baltimore in 1791, on the "Moral and Political Evils of Slavery."[1] The speaker makes assertions that were not often ventured even in the anti-slavery days.[2] "God hath created mankind after his own image, and granted them liberty and independence; and if varieties may be found in the structure and color, these are only to be attributed to the nature of their diet and habits, as also to the soil and climate they inhabit." "The Africans whom you despise, whom you inhumanly treat as brutes, whom you unlawfully subject to slavery, are equally capable of improvement with yourselves." "What a pity it is that darkness should so obscure us, that America, with all her transcending glory, should be stigmatized with the infamous reproach of oppression and her citizens should be called Tyrants!"[3] A writer on Virginia about this time says: "The first loss to be sustained by emancipation is not the greatest bar to this desirable object."[4] It is tolerably certain that, but for South Carolina and Georgia, the slavery compromises of the Constitution would not have been found necessary. As late as 1827 anti-slavery societies flourished both in Maryland and in Virginia,[5] and they do not seem to have been particularly obnoxious to the people.[6]

After the establishment of the new Constitution, there was an immediate movement against slavery on the part of the Quakers. In 1790 petitions were sent to Congress asking the abolition of the slave-trade. One also was presented from the Philadelphia Abolition Society signed by Franklin and others. These were met with considerable opposition, occasioned some debate, but of course accomplished nothing. Washington, however much he favored the end, considered the last petition most unreasonable and ill-

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[1] Mr. Poole refers to this and quotes from it.

[2] Poole, *Anti-Slavery Opinions before 1800.*

[3] Buchanan, *Moral and Political Evils of Slavery.*

[4] Burk, *Virginia*, i., 212.

[5] In 1827 there were eight in Virginia, eleven in Maryland, and two in the District of Columbia.—Poole, *Anti-Slavery Opinions*, 72.

[6] Schurz, *Henry Clay*, ii., 70.

timed.[1] Yet Southern men, while insisting upon the impossibility of the nation's interference with the States, declared that it should not, in its practice, favor slavery. Madison said: "If there is any one point on which it is clearly the policy of the nation to vary the practice obtaining under some of the state governments, it is this." A Southern writer has said of a later time what certainly is true of this: "The anti-slavery feeling of the South was purer and honester than that of the North. It proceeded from severely moral considerations, and although having much of interest to uphold in slavery, and seeing the advantages thereof, it had virtue enough to perceive what there was of offense in it to the law of justice and humanity. . . . The only pity connected with a record so honorable is, that this sentiment did not find some practical means of testifying itself, not only that it might thus have put itself beyond the likelihood of being ignored or misrepresented, but also that it might have done some positive good in its day; the sequel of its history being, that it was wasted in visionary enterprises, and at last nearly lost in the confusion of an increased controversy."[2]

But whatever the opinions of Southern statesmen, the course of industrial development in the South was not favorable to the growth of anti-slavery ideas. Jefferson, on his return home in 1809, was surprised to find how little progress public sentiment in Virginia had made on the subject; nearly all the younger men showed less inclination to favor emancipation than he had expected.[3] His opinion had been that only time was needed to strengthen the desire for the abolition of the system and develop means for bringing it about. All his life, closing his eyes to every proof of the growth of slavery, he clung fondly to the belief that its destruction would be accomplished quietly and gradually by the advancement of public opinion in the South.

[1] *Writings of Washington*, x., 85, 98. This petition was defended by Maryland and Virginia members.

[2] Edward A. Pollard, *Galaxy*, vol. xvi.

[3] Randall, *Life of Jefferson*, iii., 644.

While several petitions relative to the slave-trade had been received in Congress from the Friends and others, and the general subject of slavery had been touched in discussion on one or two occasions, the existence of slavery at the seat of government apparently had excited no comment. In 1805 Mr. Sloan of New Jersey offered a resolution moving the emancipation of slaves in the District at a certain age. The motion to refer it to a committee was voted down by sixty-five to forty-seven. Without any discussion, the resolution was voted on and lost by seventy-seven to thirty-one,[1] receiving one vote from a slave State.[2] It aroused no interest, apparently, on either side, and there was no question of its constitutionality. The one Southern vote in its favor was that of Mr. Archer of Maryland.

The first attempt at systematic work on this line was made about 1816 or 1817. This, apparently, was a propitious time for it. The slave-trade had been prohibited some years before, the country was now at peace, industries were reviving, and party violence had given way before the "era of good-feeling." One of the evidences of this movement is the publication of a pamphlet on *The Portraiture of Domestic Slavery in the United States*, by Jesse Torrey. This contains a graphic description of the system as carried on in the District. It is possible that the inquiry into this matter may have some connection with John Randolph's sudden resolution in the House against the slave-trade at the capital. *The Philanthropist*, in 1817, urged an appeal to Congress, advocating, among other means, the petitioning of that body for abolition. Here the "plan of campaign" is outlined, and the expected results are stated. "The Congress of the United States has exclusive jurisdiction over the District of

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[1] Benton, *Deb. in Cong.*, iii., 313; *Annals of Cong.*, 1804–1805, 995.

[2] Mr. Giddings gives credit to Williams, Alexander, and Wynns of North Carolina, Wilson of Kentucky, and Archer of Maryland, for voting "aye." The last is the only one given by Benton and in the *Annals* in the list of "ayes." I find Alexander not recorded. Williams and Wynns are recorded as voting "no," while the lists given contain no Wilson from Kentucky. But I find an Alexander Wilson of Virginia recorded as voting "no" on both motions.

Columbia. A majority of the members are chosen by those whose slave-holding interest is not predominant. Is it not therefore certain, if the subject be brought home to their notice, that it will lead to a free discussion of its merits? Will not the very discussion of the subject tend to aid the great cause of emancipation? Is it not highly probable that some prudent measure may be adopted for the early final extinction of slavery under their immediate and exclusive jurisdiction in the District of Columbia? If the chain of slavery can be broken which connects Maryland and Virginia, if liberal and just principles can be introduced there, we may cherish the hope that it will soon be abolished on this side of the Potomac, that proper means will be devised for the disposal of the blacks, and that this foul and unnatural crime of holding men in bondage will finally be rooted out from our land."[1] These efforts must have had some effect. In the Senate a motion was made to inquire into the slave-trade in the District of Columbia. The papers also mention a proposal in Congress[2] to exclude slaves from labor on the public works.

The cause moved but slowly, however, and soon the smaller matter was overshadowed by the great Missouri struggle. During the debate on the Missouri question, Southern members referred to abolition in the District of Columbia in a way to show that it had not found warm sympathy among members of Congress in general.[3]

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[1] *The Philanthropist*, 1817, 98.

[2] "We mention the fact to show that the evils of slavery, which have long been felt at Washington, are beginning to be spoken of publicly."—*The Philanthropist*, Feb., 1818, 172.

[3] Richard M. Johnson said: "I am at a loss to conceive why gentlemen should arouse all their sympathies upon this occasion, when they permit them to lie dormant upon the same subject in relation to other sections of the country, where their power would not be questioned. Congress has the express power, stipulated by the constitution, to exercise exclusive legislation over this District of ten miles square. Here slavery is still sanctioned by law; and though we have ocular demonstration of it continually, the slave in this place finds no advocate. Is it because they fear no political rivalry from this quarter? To interfere with state sovereignty upon this subject is, in my humble opinion, downright usurpation; but in the District of Columbia, containing a population of

From the very first, and especially after 1820, there appeared a strong aversion in Congress to the discussion of any question involving slavery, shown by the North as well as by the South. The slightest allusion to the question raised an alarm among Southern members, and Northern men, rather than be the means of creating a disagreeable excitement, permitted even the most necessary measures to fall through. The uneasiness caused in 1826 by the discussion of Mr. Ward's very reasonable resolutions to amend the "runaway" law was considerable, and possibly some suspicion against the North was aroused. Yet the measure proposed to do only what Maryland had already very safely done, and what Virginia, at least, never had made necessary.

Again, as early as 1824, an attempt was made to bring up a discussion of this question. Mr. Lundy, in his paper, published an appeal to members of Congress to consider the matter of abolition in the District.[1] Later he suggested it as a measure that the coming President might encourage.[2] A few petitions also were presented, notably one from North Carolina.[3] The movement, however, did not gather much force until 1826. Then Mr. Miner, as the champion of emancipation, was urged to bring the matter before Congress.[4] May 13th he suggested in the House of Representatives an inquiry whether the industrial and legislative interests centering in the District of Columbia would not be subserved by the introduction of a free white laboring population in place of that now existing there; whether the slave trade in the District does not require legislative interposi-

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thirty thousand souls, and probably as many slaves as the whole territory of Missouri, with three cities increasing rapidly in population, the power of providing for their emancipation rests with Congress alone. Why then, Mr. President, let me ask, why all this sensibility, this commiseration, this heart-rending sympathy, for the slaves of Missouri; and this cold insensibility, this eternal apathy, towards the slaves of the District of Columbia?"—*Annals of Cong.*, 1819–1820, 351.

[1] *Gen. of Univ. Emanc.*, Feb., 1824.

[2] *Life of Lundy*, 191.

[3] *Gen. of Univ. Emanc.*, vol. iv., 78, 79.

[4] *Gen. of Univ. Emanc.* and *Baltimore Courier*, March 4, 1826.

tion; whether the District of Columbia should not exhibit the purest specimen of government; and offered the resolution: "That the Committee on the District of Columbia do take the subjects herein referred to into consideration, and if they shall, after full inquiry, be of the opinion that the public interest will be promoted thereby, report a bill for the gradual abolition of slavery in the District of Columbia, and such restrictions upon the slave trade therein as shall be just and proper." The question of considering these resolutions was negatived "by an apparently large majority."[1] A correspondent to the *Philadelphia Gazette* says that many Southern gentlemen seeming much excited, it was thought best not to bring on a discussion prematurely. Mr. Miner again attempted to open the subject by an amendment to Mr. Ward's resolutions, but was ruled out.[2]

February 12, 1827, Mr. Barney of Maryland presented a memorial from citizens of Baltimore. After some general remarks on the effects of slavery, they ask Congress "to take the subject of slavery in the District of Columbia, over which Congress has exclusive jurisdiction, into its grave and serious consideration, and pass such laws as will effect a gradual but certain abolition of slavery in the said District." They ask this not only for the honor of the United States, but for the example it would afford the States, feeling confident that this example would be followed by Maryland. It perhaps emanated from one of the anti-slavery societies in Baltimore. A motion was made to lay it on the table, but was declared out of order. Immediately there arose a great excitement. This appeared to be a step towards the position that ought not to be taken. If it could be expected to stop with the District, it might not look so serious; but "it breathed the spirit of general emancipation, and though its request began with the District, its ulterior purpose went much farther."[3] Mr. Barney defended it as a matter worthy of consideration, and declared this to be a proper time for

[1] *Gen. of Univ. Emanc.*, June 10, 1826.
[2] Benton, *Deb. in Cong.*, ix., 354.
[3] Benton, *Deb. in Cong.*, ix., 416.

taking it up. But the very fact that it expressed a hope of influencing Southern States, aroused suspicion against the ultimate purpose of the petitioners. Yet it does not appear that Southern members generally felt any fear even if slavery in the District should be abolished. The strongest desire on the part of both Northern and Southern members seems to have been to avoid the discussion of a disagreeable and exciting subject. There was as yet no suspicion that such a measure would be unconstitutional. Knowing what we do of the attitude of Congress on all District matters, and having noticed its lack of purpose and method in District legislation, we are struck with the apparent irony in Mr. McDuffie's remarks, when he says: "We act as Representatives for the people in the District of Columbia. We must guard their rights. They are under as perfect a despotism as ever existed in the Provinces of Rome under the Prætors. I trust whenever we legislate for them, we shall not permit the people of other States to come here with impertinent suggestions of what ought to be done in any particular case." Then he adds: "If the people of the District of Columbia wish to abolish slavery, and will present a petition to this House to that effect, no man in this House will be more ready than I will to grant the people any measure which they may deem necessary to free themselves from this deplorable evil."[1] The motion to print was lost, and the petition was laid on the table.

In the next session, 1828, the people of the District did petition for abolition, but there is no record of Mr. McDuffie's readiness to grant them any measure. This is the second instance of his amazing interest in the District, which, like that of so many others, exhausted itself in protestations of sympathy and solicitude. Possibly many that had found it convenient to make fair promises heretofore, had become of the opinion also by this time that the petition's purpose went farther than abolition in the District merely, and found it necessary to exercise more than usual care in guarding the

[1] Benton, *Deb. in Cong.*, ix., 415.

rights of these people under an absolute despotism. At least it was much less necessary to free the people of the District from a deplorable evil, than to prevent the possible application of the same remedy for that evil in the States. This petition was signed by about a thousand citizens of the District,[1] many of them among the most prominent people, and some of them slave-holders. "A stronger anti-slavery document has not been presented in later years."[2] It declared that "While the laws of the United States denounce the foreign slave trade as piracy, and punish with death those who are found engaged in its perpetration, there exists in this District, a domestic slave trade scarcely less disgraceful in its character, and even more demoralizing in its influence. Nor is the traffic confined to those that are legally slaves for life. Some who are entitled to freedom, and many who have a limited time to serve, are sold into unconditional slavery, and owing to the defectiveness of our laws, they are generally carried out of the District before the necessary steps can be taken for their relief.

"Nor is it only from the rapacity of the slave traders that the colored people in this District are doomed to suffer. Even the laws which govern us, sanction and direct in certain cases, a procedure which we believe is unparalleled, in glaring injustice, by anything at present known among the governments of Christendom. We are aware of the difficulties that would attend any attempt to relieve us from these grievances by a *sudden* emancipation of the slaves in this District, and we would therefore be far from recommending so rash a measure. But the course pursued by many of the states of this confederacy, proves most conclusively that a course of gradual emancipation, to commence at some fixed period, might be pursued without detriment to the present proprietors. The existence among us of a distinct class of people who, by their condition as slaves, are deprived of

[1] Schucker, *Life of Salmon P. Chase*, p. 27, claims that Mr. Chase, who, at the time, was studying law in Washington, was among those that drew up and signed this petition. I did not notice his name in the list of signers however.

[2] Young, *The American Statesman*, 469.

almost every incentive to virtue and industry, and shut out from many of the sources of light and knowledge, has an evident tendency to corrupt the morals of the people, and to damp the spirit of enterprise, by accustoming the rising generation to look with contempt upon honest labor, and to depend, for support, too much on the labor of others. It prevents a useful and industrious class of people from settling among us. It diminishes the resources of the community, by throwing the earnings of the poor into the coffers of the rich; and thus rendering the former dependent, servile, and poor, while the latter are tempted to become, in the same proportion, luxurious and prodigal.

"We would therefore respectfully pray that a law of Congress may be enacted declaring that all children of slaves born in the District of Columbia after July 4, 1828, shall be free at the age of twenty-five years; and that those laws that authorize the selling of supposed runaways for their prison fees may be repealed. And also, that laws may be enacted to prevent slaves from being removed into this District, or brought in for sale, hire, or transportation."[1] It will be noticed that but three things, two of them often mentioned heretofore, are asked, viz., an amendment of the "Runaway" law, exclusion of the slave-trade, and gradual abolition. The petition was referred to the Committee on the District of Columbia,[2] but apparently never reported on. Certainly no bill was framed in accordance with the desire of the petitioners. In 1834, at some one's request, the petition was read to the House from the records,[3] and Dec. 23, 1835, at the request of Mr. Slade, was read again. This was the most numerously signed, but not the last abolition petition sent by the people of the District. The later ones received even less notice from Congress, and during the subsequent agitation, it was constantly asserted that "the inhabitants had not asked for abolition, and did not want it."

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[1] *Niles' Register*, xxxiv., 191.

[2] *Nat. Intell.*, April 9, 1828.

[3] Mr. Slade, Dec. 16, 1835, says that, on motion of Mr. Hubbard, it was ordered printed. *Cong. Globe*, 24th Cong., 1st Sess., 25.

In the meantime petitions for the same object were coming from the States. At the same session two or three came from North Carolina with signatures to the number of three hundred.[1] May 8, 1828, one from the people of Pennsylvania was presented by Mr. Stewart.[2] There appears nothing to indicate that these were referred. We should scarcely expect them to receive more considerate treatment than was given one from the territory whose rights Congress was guarding so jealously. One from Vermont in November, 1828, makes its request somewhat in the manner of a second to that of the people of the District, adding: "It is gratifying to believe that a large majority of the inhabitants residing in the District are earnest for this abolition."[3] Thus, again the attention of Congress was called to the petition of these, its subjects. The circulation of these papers flagged in 1829. Lundy ascribes this to the differences of opinion on religious and political matters which were separating abolitionists.[4] But interest in the question had not died out. The agitation for abolition had begun in earnest now, and enough sympathizers with anti-slavery doctrines were in Congress henceforth to bring forward and support every petition or motion for abolition in the District, and to keep the defenders of slavery in a continued state of suspicion and alarm and render possible the wild storm of 1836.

January 6, 1829, Mr. Miner of Pennsylvania introduced in the House a set of resolutions. The preamble set forth the abuses towards the free blacks under the laws, the prevalence of the slave trade and the scandal caused thereby, and the fact that inhabitants of the District and of several

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[1] *Life of Lundy*, 222.

[2] *Niles' Register*, xxxiv., 198.

[3] *Life of Garrison*, i., 109. The interest in abolition felt in the District must have been more general than any records of Congress would show, for we learn that in December, 1829, the American Anti-Slavery Society held its convention in Washington, and was offered the use of the City Hall by the Mayor. There was no opposition to it,—in fact, the matter excited no comment, and this was done in a slave-holding community at a time when considerable bitterness was being shown on the subject in Congress.

[4] *Life of Lundy*, 234, 235.

States had petitioned for abolition. The resolutions moved that the Committee on the District of Columbia inquire into these statements and report on the laws of the District, "and also inquire into the expediency of providing by law for gradual emancipation." [1] The long debate following was

[1] Whereas, the Constitution has given to Congress within the District of Columbia, the power of "exclusive legislation" in all cases whatsoever;

And whereas, it is alleged that the laws in respect to slaves in the District of Columbia have been almost entirely neglected;

From which neglect for nearly thirty years, it is alleged there have grown numerous and gross corruptions;

That slave dealers, gaining confidence from impunity, have made the seat of the Federal Government their headquarters for carrying on the domestic slave trade;

That the public prisons have been extensively used (perverted from the purposes for which they were erected) for carrying on the domestic slave trade;

That private and secret prisons exist in the District for carrying on this traffic in human beings;

That officers of the Federal Government have been employed, and derive emolument from carrying on the domestic slave trade;

That the trade is not confined to slaves for life, but persons having a limited time to serve, are bought by the slave dealers and sent where redress is hopeless;

That others are kidnapped and carried away before they can be rescued;

That instances of death from anguish and despair, exhibited in the District, mark the cruelty of this traffic;

That instances of maiming and suicide, executed or attempted, have been exhibited, growing out of this traffic within the District;

That free persons of color coming into the District are liable to arrest and imprisonment, and sale into slavery for life, if unable from ignorance, misfortune or fraud to prove their freedom;

That advertisements beginning, "We will give cash for 100 likely negroes, of both sexes from 8 to 25 years old," contained in the public prints of the city, under the notice of Congress indicate the openness and extent of the traffic;

That scenes of human beings exposed at public vendue are exhibited here, permitted by the laws of the General Government,—a woman having been advertised "to be sold at Lloyd's tavern near the Centre Market House" during the month of December;

And whereas, a Grand Jury of the District has set forth "that to those who never have seen a spectacle of the kind, (exhibited by the slave trade) no description can give an adequate idea of its horrors";

To such an extent had this been carried in 1816, that a member of Congress from Virginia introduced a resolution in the House "That a committee be appointed to examine into the existence of an inhuman and illegal traffic in

on the preamble entirely. Some members expressed a readiness to vote for the resolutions, but objected to subscribing to any statement, the truth of which they did not know. Mr. Weems of Maryland declared that he could prove false two of the statements made, and had no doubt the rest would be found as groundless as these; in fact, he did not believe anything affirmed in the preamble. The next day Mr. Miner proceeded to support the statements of his preamble. He presented the case very ably, but the outcome was pre-determined. The preamble was lost; the resolutions were carried by a large majority.[1]

The Committee on the District of Columbia at this time consisted of Messrs. Alexander and Allen of Virginia, Weems and Washington of Maryland, Kremer of Pennsylvania, Varnum of Massachusetts, Ingersoll of Connecticut.[2] January 29th Mr. Alexander, the chairman, made their report

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slaves carried on in and through the District of Columbia, and report whether any and what measures are necessary for putting a stop to the same";

The House of Representatives of Pennsylvania at their last session by an almost unanimous vote, expressed the opinion, that slavery within the District of Columbia ought to be abolished;

Numerous petitions from various parts of the Union have been presented to Congress praying for a revision of the laws in respect to slavery, and the gradual abolition of slavery within the District of Columbia;

A petition was presented at the last session of Congress signed by more than a thousand inhabitants of the District praying for the gradual abolition of slavery therein;

And whereas, the ten miles square confided to the exclusive legislation of Congress, ought for the honor of Republican Government, and the interests of the District, to exhibit a specimen of pure and just laws;

Be it Resolved, That the Committee of the District of Columbia be instructed to take into consideration the laws of the District, in respect to slavery; that they inquire into the truth of the foregoing allegations, and report the facts connected therewith, and that they also inquire into the slave trade as it exists in, and is carried on by the District; and that they report to the House such amendments to the existing laws, as shall seem to them to be just.

Resolved, That the Committee be further instructed to inquire into the expediency of providing by law for the gradual abolition of slavery within the District in such manner that the interests of no individual shall be injured thereby. Benton, *Deb. in Cong.*, x., 299.

[1] Benton, *Deb. in Cong.*, x., 314.

[2] *Niles' Register*, xxxv., 253.

and presented a bill[1] which was read twice and "committed," but here we lose trace of it. The report deserves a place among the illustrious examples of the sort of reasoning that upheld the slave system. It declared that "it is not the District of Columbia which alone is concerned in this matter, but a large portion of the United States, and more immediately the country around, that must be sensibly affected by any movement of the kind. . . . The State of Maryland having no law in force at the time against the introduction and sale of slaves within her limits, they have been permitted to be bought and sold within the County of Washington. . . . Although there is nothing to prevent in the part of the District ceded by Maryland, the committee are not aware, nor do they believe, that the practice of buying slaves for the purpose of selling them to remain in the District exists to any extent. The trade alluded to is presumed to refer more particularly to that which is carried on with the view of transporting slaves to the south, which is one way of gradually diminishing the evil complained of here; while the situation of these persons is considerably mitigated by being transplanted to a more genial and bountiful clime. Although violence may sometimes be done to their feelings in the separation of families, it is by the laws of society which operate upon them as property, and cannot be avoided as long as they exist; yet it should be some consolation to those whose feelings are interested in their behalf to know that their condition is more frequently bettered and their minds happier by the change. In all cases where slaves bound for a term of years are liable to be taken away and sold, the courts, upon a knowledge of the facts are competent to grant relief, and to bring to punishment all offenders against the laws in this respect. . . . In every point of view in which the committee have been able to consider this part of the subject [abolition] whether as to the right of property, the good order of society within the District, or the harmony of the whole Union, they have come to the conclusion that it is

[1] *Niles' Register*, xxxv., 396.

better not to disturb it, but to leave it where it now rests, with the laws, and the humanity of those who are interested in protecting and taking care of this species of property." The bill prohibited the importation of slaves, any slave imported being declared free upon condition of leaving the District within ten days, "and the freedom given by this act shall not be deemed a mere penalty upon the person so importing, but shall be the right and privilege and for the benefit of the person so imported." All sales of slaves under the law were to be made by families, it not being lawful to separate the husband and wife, or the mother and children under ten years of age. No tavern-keeper or other person was to keep slaves imprisoned longer than twenty-four hours, except on receiving a certificate of registration of the owner from the clerk of the circuit court.[1]

For the first time it is asserted in this debate that Maryland and Virginia would not have ceded the two counties to the United States, if they could have had a thought that anything so perilous to their own interests as abolition in the District would be attempted. The idea takes root immediately and grows till it becomes one of the chief doctrines of the slave power. This is also the first time, so far as the records show, that the "harmony of the whole Union" is assigned as a reason for supporting or opposing any District measure. After this failure, for some time there is little said on this subject. The records show evidence of a few attempts to bring the question again before Congress. Little attention, however, seems to have been given them. While every debate on the subject shows increasing uneasiness and suspicion of the motives of these petitioners, there is as yet no general fear as to the result of the petitions.

The position taken by John Quincy Adams on the question is interesting on account of his strength and influence, and because he was the most prominent of those that did not change their position. December 12, 1831, he presented fifteen petitions from citizens of Pennsylvania, asking for the

[1] *Nat. Intell.*, Feb. 7, 1829. The next year a law almost precisely like this is reported as pending in the House. *Nat. Intell.*, April 22, 1830.

abolition of slavery and the slave-trade in the District of Columbia, and moved their reference to a committee. Mr. Adams said the petitions might have been sent to him on the supposition that he would favor their object. He considered it only right to state that the question of abolition in the District would not receive his support. Whatever his ideas of slavery in the abstract, or on slavery in the District of Columbia, he did not think its abolition there was desirable.[1] He hoped the subject would not be discussed in the House. This declaration caused some consternation among the abolitionists, who, knowing his anti-slavery principles, were accustomed to reckon him on their side in this matter also. Mr. Lundy states that he (Mr. Adams) did not think that he had a right to legislate for the District of Columbia on any subject at the suggestion of citizens of Pennsylvania or any other State. Mr. Adams in the *Memoirs* makes his reason clearer. Under date of January 10, 1832, he writes: "Mr. Lewis came to have some conversation with me upon the subject of slavery in the District of Columbia. . . . He said he wished to know my sentiments upon slavery. I told him I thought they were not materially different from his own, . . . that in presenting the petition I had expressed the wish that the subject might not be discussed in the House because I believed a discussion would lead to ill-will, to heart-burnings, to mutual hatred, where the first of all wants was harmony, and without accomplishing anything else. I asked what he should think of the inhabitants of the District of Columbia if they should petition the Legislature of Pennsylvania to enact a law to compel the citizens of that state to bear arms in defense of their country. He said he should think they were meddling with what did not concern them. I said the people of the District might say the same of citizens of Pennsylvania petitioning for abolition, not in that state itself, but in the District of Columbia."[2] The committee to which these petitions were

[1] *Niles' Register*, xli., 284; Benton, *Deb. in Cong.*, xi., 540.

[2] Adams' *Memoirs*, viii., 454, 455. A correspondent of the *Loudoun* (Va.) *Chronicle* writes Feb. 12, 1849: "We, the people of the District, . . . say

referred was composed of three Virginia and three Maryland members and one member from Pennsylvania. They reported that abolition would be unjust to Maryland and Virginia until after those States themselves should have taken action in the matter. If such interference on the part of Congress would be justified by any circumstances the present is an inauspicious time for its consideration. They begged to be discharged from considering that part of the petitions.[1] The report was unanimously adopted.

February 4, 1833, Mr. Heister of Pennsylvania presented a memorial from his own State asking abolition of the slave trade in the District, and asked that it be referred to a special committee. Evidently they have lost faith in the regular committee. Mr. Mason said that though the gentleman disclaimed any desire to interfere with the States, this was but the beginning of a series of measures looking towards that result. It is interesting to notice that Mr. Bates of Maine moved to lay the petition on the table, and that Mr. Craig of Virginia defended it as perfectly regular, and worthy of respectful reference, since "the people of all the northern states were as much concerned in the District of Columbia matters as those of the southern states."[2] Mr. Adams hinted at the best way of disposing of it. He had presented fifteen petitions in the last session, and they had gone to the Committee on the District of Columbia. A short report was presented and the subject was heard of no more. January 26, 1835, Mr. Dickson of New York presented several petitions from people of his State. He outlined the history of these attempts in Congress, and referred to the action—or inaction—of the District Committee on the matter. He also gave reasons for desiring abolition, and made a very strong appeal to the consciences of his fellow-

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to the states both north and south 'let us alone; our own Legislature will take care of us.' When we want slavery abolished here we will say so, and *when we say so*, we wish the south to remember her own long-cherished doctrine of non-interference."—*Nat. Era*, April 19, 1849.

[1] Benton, *Deb. in Cong.*, xi., 541.

[2] Benton, *Deb. in Cong.*, xii., 161,

members.[1] If anything could have called Northern members to a sense of their duty, it seems that this earnest yet dispassionate statement of facts must have done so. No one replied to it. Mr. Chinn of Virginia, in a very short, very sarcastic speech, moved to lay the petition on the table. Among the hundred and seventeen voting for the motion were thirty members from Northern States![2] Mr. Bell of Tennessee and Mr. Milligan of Delaware were the only representatives from slave States voting against it. None from the border States opposed it. Many other petitions that it is impossible to notice came in at this period. They were either laid on the table or referred to the regular Committee, which considerately kept them out of the sight and hearing of the sensitive members of Congress. In these years the Senate, which had heretofore been left comparatively free from the more troublesome District matters, began to receive its share of these documents.

The opening of the session of 1835–6 reveals the change in the state of affairs since 1830. The Southampton insurrection has aroused apprehension all over the South. The attempt to throw the blame for this rising upon abolitionists has served temporarily to bring all anti-slavery work into disrepute. Emancipation societies no longer flourish in the South,[3] and people there who have appreciated and acknowledged not only the moral but the political wrong of slavery, must now change their opinions or keep them concealed. A slave-holding, slavery-supporting administration has nearly finished its second term, and is lending its whole power to strengthen the system it represents. All these things have their influence in the District of Columbia. There has been a perceptible decline in anti-slavery sentiment here. In 1828 over a thousand persons had declared this sentiment; in 1832 a correspondent says there is no considerable interest felt in the continuance of slavery, and but for recent excitements the people would have been willing to petition for its

[1] Benton, *Deb. in Cong.*, xii., 660–664.
[2] Benton, *Deb. in Cong.*, xii., 665.
[3] *Life of Lundy*, 247.

final extinction'; yet in 1833, less than five hundred sign the petition for abolition; and the next memorial of which we have a record asks that slavery be *not* abolished. A real sense of danger to Southern institutions is bringing Southern men together more closely.

In the next session there are, in both houses, three shades of opinion on the treatment of these abolition petitions. The party favoring the memorialists is still inconsiderable in numbers and in influence. Besides these, we find a group of which John Quincy Adams is the most important member, who do not favor abolition in the District, though holding it constitutional, but who believe that the only proper way to treat the petitions is to refer them to a committee, which may, or may not, report on them. This party is not large, and is composed almost entirely of Northern men, from principle opposed to slavery, and yet not seeing how the cause of freedom can be advanced by the methods of the abolitionists. The second group is made up of men opposed to abolition, who consider the abolitionists a despicable set of fanatics, very far from representing the true Northern sentiment. They think laying on the table[2] as respectful treatment as the petitions deserved, and one that does no violence to the sacred right of petition. This party is the largest, and is made up of Southern men who still have faith in Northern support, and who are not blinded by passion or by selfishness to the dangers of making too extravagant demands, and of Northern men with pro-slavery tendencies. Both these parties had expressed their respective opinions previous to this time. The third does not make itself heard till 1836. It is led by Calhoun, and is composed of the most rabid Southerners and the sycophantic pro-slavery Northerners. While by its violence it succeeded in thoroughly frightening the great middle party into compliance on some points, it never secured the *rejection* of the petitions by either house. The Senate always held to the more conservative policy; and the House, with all its "gag" rules, never explicitly de-

[1] Andrews, *Slavery and the Domestic Slave Trade in the U. S.*, 125.

[2] A motion of this sort has been ruled out of order in 1827.

nied the constitutional right to legislate on slavery in the District, so far as such legislation might be intended to affect the District alone.

The second stage of the great battle, begun in 1819 over the right of Congress to control the extension of the slavery system, opened in the session of 1835–6. The real question of slavery was touched only incidentally. To be sure the South thundered about its rights, and threatened disunion if the first step towards abolition was taken; but Adams and his supporters very coolly told these excited individuals that this was not the question. The question was, whether the people should or should not be allowed to address Congress on any matter they considered a grievance. North as well as South seems to have tacitly accepted as true the assertion of a representative from Virginia: "Slavery is interwoven with our very political existence, is guaranteed by our Constitution, and its consequences must be borne by our Northern brethren as resulting from our system of Government."[1] On this point, for a time, everything was yielded to the slave power. The struggle over receiving the petitions, side issue though it was, was of great importance, and, thanks to Adams' refusal to be defeated, was a victory for freedom as well as for constitutional right.

The history of the struggle is too well known to need here a detailed description. It came up December 18, 1835, on the presentation of a petition from Massachusetts asking for immediate abolition in the District. Mr. Hammond of South Carolina moved that it be not received. Allusion was then made to a similar memorial which had been referred, and a day or two afterwards this reference was brought up for reconsideration, the object being to lay the petition on the table or to reject it. Mr. Adams thought the best way to avoid discussion was to refer it in the regular way to the committee, trusting to their understanding of the sentiment of the House not to bring up the question in an offensive way. "This does equal justice to all parties in the country;

[1] A remark of Mr. Wise. Benton, *Deb. in Cong.*, xii., 679.

it avoids discussion of the agitating question on the one hand, and on the other it pays due respect to the right of the constituent to petition. For from the moment that these petitions are referred to the Committee on the District of Columbia, they go to the family vault of all the Capulets, and you will never hear of them afterwards. Your committee on the District is not an abolition committee. You will have a fit, proper, and able report from them, the House will adopt it, and you will hear no more about it." Mr. Adams' understanding of the position of the committee in the House was complete. It no longer felt under the necessity of reporting on, or even considering, every matter referred to it. Its power in originating measures and influencing legislation was sufficient to make it regardless of the wishes of a faction. The Committee on the District of Columbia since 1829 had understood the temper of the House well enough to know the uselessness of introducing a bill for abolition in the District. Since Congress was too lukewarm on the subject to pass mild reform measures recommended by slavery men themselves, there was no hope for abolition.

As long as this policy referred to by Mr. Adams could be adhered to, the danger of serious and general agitation was at the minimum, and as long as agitation was avoided, there was little prospect of a rapid growth of the abolition sentiment. But there was no possibility of obtaining permanent quiet and security for slave-holders by any means, and the belief that anti-slavery men could be bullied into inactivity was the greatest delusion. To the fact that the South and its sympathizers allowed their irritation at the work of a mere "handful of fanatics" to lead them to violent extremes, quite as much as to anything else, was due the rapid advancement of the North toward active opposition to the whole system. It would have been to the advantage of the South to have heeded Adams' warning: "If you reconsider this vote and lay these petitions on the table, if you come to the resolution that this House will not receive any more petitions, what will be the consequence? In a large portion of this country every individual member who votes with you

will be left at home at the next election, and some one will be sent who is not prepared to lay these petitions on the table. You will have discussion. A discussion on the merits of slavery. On such a discussion every speech made by a member north of Mason and Dixon's line, in the House, will be an incendiary pamphlet. I doubt not I might make a speech as incendiary as any pamphlet upon which denunciations have been poured. If I were capable of the craven and recreant spirit of shrinking from expressing not probably so much my own sentiments as those of my constituents, I should go home to their scorn, and they would send here a man who would represent them more faithfully."[1]

Several different members introduced resolutions to prevent the further agitation of the subject in the House, and they were at last summarized in a set introduced February 8, 1836, by Mr. Pinckney and adopted by the House, that all petitions hereafter presented praying for abolition in the District of Columbia be referred to a select committee with instructions to report that "Congress ought not to interfere in any way with slavery in the District of Columbia, because it would be a violation of the public faith, unwise, impolitic, and dangerous to the Union."[2] In accordance with these instructions the committee presented a report, May 18th, and it was adopted after much discussion.[3] Some objection was made to it because it did not explicitly deny the *right* of Congress to abolish slavery in the District. A reason given for not doing so was that there was some doubt on it even among Southern members, and they would have voted against it. As passed, the resolutions were satisfactory to very few.[4]

In the Senate the constitutional question received more attention. January 7, 1836, Mr. Morris of Ohio presented

[1] Benton, *Deb. in Cong.*, xiii., 9.

[2] Benton, *Deb. in Cong.*, xiii., 13; *Cong. Globe*, 24th Cong., 1st Sess., 172.

[3] The resolutions accompanying the report, which were also adopted, declared that all petitions, memorials, resolutions, propositions, or papers relating in any way to the subject of slavery, or the abolition of slavery, shall, without being either printed or referred, be laid upon the table, and that no further action whatever be had thereon.

[4] *Niles' Register*, li., 210.

two petitions. After they were read the motion was made to lay them on the table. Mr. Calhoun immediately took fire. He declared them a foul slander on nearly one half the States in the Union. They were an insult to the State and the people that he represented. They involved also a matter in which neither this body nor the House *had any right to interfere.* Mr. Buchanan of Pennsylvania thought the effect of abolition here would be to "erect a citadel in the very heart of these States [Maryland and Virginia] upon a territory which they have ceded to you for a far different purpose, from which the abolitionists and incendiaries could securely attack the peace and prosperity of their citizens. Is there any reasonable man who can for a moment suppose that Maryland and Virginia would have ceded the District of Columbia to the United States if they had entertained an idea that Congress would ever use it for such a purpose?"

The question was taken up again January 19th, when Mr. Leigh of Virginia proceeded to demonstrate the unconstitutionality of abolition in the District. He declared that the District of Columbia was ceded not to the United States, but to Congress, which can claim no rights of sovereignty, whatever the United States may. It was ceded by the ordinary Legislatures of Maryland and Virginia, which never pretended to sovereignty. In order to show that Congress has constitutional power to abolish slavery in the District, it must first be shown that the Legislatures of these two States have, and had at the time of cession, constitutional power to abolish the rights of slave property within their limits.[1] Another and a slightly different line of argument was followed by Mr. Tipton of Indiana in the next session. He says: "Slavery existed in Virginia, Maryland, and other states, before the Federal Constitution was adopted. Slavery then belonged *exclusively* to the several states, and there it still remains. The states in entering into the Union, did not yield to the Federal Government any right to interfere with the question of slavery in the states or in this District.

[1] Benton, *Deb. in Cong.*, xii., 714.

The states of Maryland and Virginia ceded to the Federal Government this ten miles square called the District of Columbia, for a seat of Government, and granted to Congress legislative powers over the District for that purpose. This power was given to Congress by the states for special purposes, and is limited from the very nature of the grant. Congress cannot abolish the right of trial by jury, abridge the liberties of the press, nor establish a national church in the District, any more than in one of the states; nor has Congress a right to interfere with slavery in the District while Maryland and Virginia continue to be slave-holding states.[1]

The doctrine thenceforth held by all friends of the slave power began with *supposing* Maryland and Virginia at the time of cession would have opposed abolition in the District, if it had been thought of, when, in fact, Maryland and Virginia were both favorable to any practical scheme of doing away with slavery. Then the idea grew into the positive assertion that these States never would have ceded the District, if there had been danger of such a thing,—some were even hardy enough to say that there was a tacit understanding to the effect that the slave interests would be protected.[2] At last Leigh and Calhoun and then the whole troop of their followers found a complete constitutional prohibition of it, *i. e.:* "The Government has no right to take the property of individuals, even with compensation, except for public use."

It is interesting to note here the position held by Southern members on this question in the earlier period. During the Missouri struggle, Richard M. Johnson said: "In the District of Columbia . . . the power of providing for

[1] *Cong. Globe*, 24th Cong., 2d Sess., 160.

[2] The vital part of the Maryland act of cession read as follows: "All the territory defined is hereby acknowledged to be forever ceded and relinquished to the Congress and Government of the United States, in full and absolute right and exclusive jurisdiction, as well of soil as of persons residing or to reside thereon . . . ; provided, that nothing herein contained shall be so construed to vest in the United States any right of property in the soil as to affect the right of individuals therein."—Scharfe, *Hist. of Md.*, ii., 569.

emancipation rests with Congress alone."[1] Mr. Smyth of Virginia said: "Within the ten miles square, you have undoubted power to exercise exclusive legislation. Produce a bill to emancipate the slaves of Columbia."[2] Again he said: "When it was the intention of the convention that the constitution should convey to Congress power to legislate over persons and private property, they expressed themselves in terms not doubtful. Thus, they said, 'Congress shall have power to exercise exclusive legislation in all cases whatsoever' within the ten miles square."[3] Petitions asking abolition in the District had been presented from the South[4] in 1822, 1824, 1827, 1828, and 1830, by Southern men. Turning to a much later time, we find that in January, 1856, Robert Toombs, denying the unlimited power of Congress over the territories, says: "When the constitution wishes to confer this power, it uses appropriate language; when it wished to confer this power over the District of Columbia and places to be acquired for forts, magazines, and arsenals, it gave Congress power to exercise exclusive legislation in all cases whatsoever over them."[5]

During the discussion of this motion no one seems to have had the courage to answer Mr. Leigh's argument, fallacious though it was on its face. The powerful speech of Mr. King, of Georgia, shows the result foreseen by the moderate pro-slavery party. "We may seek occasions to rave about our rights; we may speak of the strength of the South, and pour out denunciations on the North; we may threaten vengeance against the abolitionists, and menace dissolution of the Union; and A. Tappan and his pious fraternity would very coolly remark, 'Well, that is precisely what I wanted; I wished to provoke the aristocratic slaveholder to make extravagant demands on the north; I

[1] *Annals of Cong.*, 1819–1820, 351.

[2] *Annals of Cong.*, 1819–1820, 999.

[3] *Annals of Cong.*, 1819–1820, 1003.

[4] Noticed by Mr. Slade in a speech of January 28, 1840. *Cong. Globe*, 26th Cong., 1st Sess., Appendix, 891.

[5] A. H. Stephens, *Constitutional View*, i., 630, Appendix.

wished them, under the pretext of securing their own rights, to encroach upon the rights of all the American people.' If Southern Senators were in the pay of the directory on Nassau Street, they could not more effectually co-operate in the views and minister to the wishes of those enemies to the peace of our country." On the right to refuse petitions, he said he "considered the pretensions of the Senate on this subject the most extraordinary ever tolerated in any representative government. On this principle, how are people ever to obtain a reform of abuses originating in either House? Where would the principle lead to? I deny the whole doctrine. It has not a single inch of ground in the constitution to stand upon. We were sent here to do the business of the people, and not to set up arbitrary codes for the protection of our dignity, and then be left to determine what dignity means." [1] Many, among them Clay and Webster, believed that Congress did have the right to abolish slavery in the District of Columbia, while believing it would be unjust to do so.[2] But they were of too peaceful or too compromising a disposition to take strong part in this debate. Clay made one or two mild speeches, and offered an amendment, which touched lightly on the difference of opinion, and aimed to offer a plan that all might agree on for shutting off debate. It found few friends, however, and was received so coldly that it was soon withdrawn. The motion of Mr. Calhoun (that the petitions be not received) was debated till March 9th, and then rejected by a vote of thirty-six to ten.[3]

Whether the North generally appreciated it or not, the moment a sufficient number could be persuaded to pronounce against slavery in the District, or in any other place over which Congress had control, the whole institution was doomed: for any system or practice that is opposed by an increasing active majority, that is contrary to the spirit of the age, must fall sooner or later. Hence the South

[1] Benton, *Deb. in Cong.*, xii., 722, 723.
[2] *Cong. Globe*, 24th Cong., 1st Sess., 239, 257.
[3] Benton, *Deb. in Cong.*, xii., 741.

was right in believing abolition in the District to be only the first step in a great abolition movement which would sweep away the slavery institution in this country. Resistance to this first step must be made by united political action within and without Congress.[1] Unless this could be secured the cause was lost. The question to the South "was not only a case of liberty, but of existence itself."[2] The importance attached to the question by the South, as

[1] The Southern States hastened to make a protest through the State Legislatures. Among them, North Carolina, in 1835, resolved: "That, although by the constitution all legislative power over the District of Columbia is vested in the Congress of the United States, yet we would deprecate any legislative action on the part of that body towards liberating the slaves of the District, as a breach of faith towards those states by whom the territory was originally ceded, and will regard such interference as the first step towards a general emancipation of the slaves of the south."—*Niles' Register*, xlix., 309.

South Carolina, 1835, passed a set of resolutions containing the following: "That we consider abolition of slavery in the District as a violation of the rights of citizens of that District, derived from the implied conditions on which that territory was ceded to the general government, and as an usurpation to be at once resisted as nothing more than the commencement of a scheme of much more extensive and flagrant injustice."—*Niles' Register*, xlix., 309.

The Virginia House of Delegates, in 1836, resolved: "That this General Assembly would regard any act of Congress having for its object the abolition of slavery in the District of Columbia, or the territories of the United States, as affording just cause of alarm to the slave-holding states, and bringing the Union into imminent peril. Resolved, that Congress has no constitutional power to abolish slavery in the District of Columbia or in the territories of the United States."—*Niles' Register*, xlix., 363.

Georgia, through its Legislature, in 1836, resolved: "That Congress has no right under the constitution to interfere with slavery in the District of Columbia, or anywhere else within the limits of the United States. That Congress, in receiving petitions for the abolition of slavery in the District of Columbia, violated the spirit of the constitution, and that members from Georgia who voted for their reception by that body grossly betrayed the interests of their constituents."—*Niles' Register*, li., 210.

Many of the Northern States, on receiving copies of these resolutions, asserted strongly through their Legislatures the right of Congress to control slavery in all territory under its exclusive jurisdiction. New Hampshire, however, in 1837, resolved: "That Congress cannot, without a violation of public faith, abolish slavery in the District of Columbia, unless upon request of the citizens of that District, and of the states by whom that territory was ceded to the general government."—*Cong. Globe*, 25th Cong., 2d Sess., 36.

[2] Speech of Mr. Calhoun in the Senate, March 9, 1839.

well as the stand they had determined to take, is well shown in a little book published in 1836. "The general government has no right to abolish slavery in the District of Columbia. The framers of the constitution could never have intended to give the government jurisdiction over this delicate subject. So far as they could, they secured to the south exclusive control of the slave question. The constitution, which so expressly withheld from the general government the power of legislation on the subject of slavery, could not have designed to give it the power of agitation,—a power which would have annihilated all restraints, and laid the domestic rights of the south at the very feet of the central government. . . . Should the abolitionists triumph in the approaching effort, they would make the general government *an abolition engine.* . . . The passage of such an act by Congress would be a virtual infraction of the compact between the general government and the States of Virginia and Maryland. . . . The South, therefore, calls upon the North to put forth her strength and assist in putting down the *emissaries* of the fanatics, and their *poisonous presses*—and, moreover, to keep off their hands from the District of Columbia. . . . The South has taken her stand on this subject, from which she will not depart. She will not permit the discussion, for one moment, of such petitions. She will consider the abolition of slavery in the District of Columbia as forbidden ground in debate. They may with safety point to the constitution and demand whether agitation can be justified and upheld by the authority of Congress, and whether it does not impair the securities to slave property, which constitute a part of that instrument. They may not only allege the evil *tendency* of entertaining discussions and receiving petitions on this subject, but they may take higher grounds, and say that should Congress, through a misguided majority, acting under fanatical impulses, make any declaration affecting the rights of slave owners in the District of Columbia, either now or prospectively, it would be, in effect, a sentence of confiscation, bounded, it is true, as to place, but co-

extensive with the limits of the Union. . . . It cannot be denied, and need not be concealed, that the abolition of slavery in the District of Columbia by Congress would be a signal for the immediate dissolution of the Union. The South does not shrink from an avowal of her determination on this point. . . . On a separation of the Union the District of Columbia would probably revert to its original States; and the very act of abolition would thus be abrogated. Thus the fanatics urge a measure, which, though it may dissolve the Union, cannot free a single slave."[1]

That the position taken by Calhoun's party was steadily doing as much to strengthen anti-slavery in the North as all the work of the abolition preachers, is unquestionably the case.[2] As early as January, 1836, Charles Sumner wrote: "We are becoming abolitionists at the north fast; the riots, the attempt to abridge freedom of discussion, and the conduct of the south generally, have caused many to think favorably of immediate emancipation who never before inclined to it."[3] December 18, 1837, Mr. Swift said in the Senate: "From the moment that these petitions were refused, to the present time, the excitement has been continually increasing."[4]

The plan of the abolitionists may be easily understood, and considering their purpose and their earnestness, whatever the differences of opinion as to their methods, the South might well fear the moral effect of their work; but they never pretended that they could do anything in the States except by moral influence. The American Anti-Slavery Society in 1835 declared that it "did not desire Congress to abolish slavery within the States, nor believe that it had any right to do so; but that it did hold to the right of Congress to abolish it in the District of Columbia."[5] In 1838, Mr. Birney gave the object of the Anti-Slavery Society as

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[1] *The South Vindicated*, 219–225.

[2] Curtis, *Life of Webster*, i., 549.

[3] Pierce, *Memoirs and Letters of Chas. Sumner*, i., 173.

[4] Benton, *Deb. in Cong.*, xiii., 557.

[5] *Life of Lundy*, 280.

"the entire abolition of slavery in the United States. While it admits that each State in which slavery exists has, by the constitution of the United states, the exclusive right to *legislate* in regard to its abolition in said State, it shall aim to convince all our fellow-citizens, . . . that slave-holding is a heinous crime. . . . The society will also endeavor, in a constitutional way, to influence Congress to put an end to the domestic slave trade, and to abolish slavery in all those portions of our common country, which come under its control, especially in the District of Columbia."[1] Whether the abolitionists ever intended to go beyond this is not so easily determined. January 7, 1839, Mr. Adams presented a petition from W. L. Garrison and others in Boston, praying for a "removal of the seat of government to some place north of the Potomac, where the Declaration of Independence is not considered a mere rhetorical flourish." This would be looked upon as sarcasm but for a statement of Curtis in his *Life of Webster*. He says, in reference to a letter of 1836 from an abolition society to Webster: "It is quite apparent that if it should be found that Congress was unable, from restrictions in the cessions of Maryland and Virginia, to abolish slavery in the District of Columbia they intended to petition Congress to remove the seat of government."[2] But it seems hardly probable that any great portion of the abolitionists would urge seriously a scheme so impracticable. After 1840, however, several petitions asking abolition in the District mention this as the alternative. This suggests some speculation as to the possible consequences of a removal at this time. It would have been a positive benefit to the colored population, no doubt, as Washington County probably would have gone back to Maryland, and thus would have been under the more enlightened government of a State Legislature. Probably the change would have caused much bitterness in the South, as having the appearance of a repudiation of its boasted social system, and it might have been quite as serious in its results as abolition. The indication

[1] *Correspondence between F. H. Elmore and Jas. G. Birney*, 15.

[2] Curtis, *Life of Webster*, i., 525.

is, too, that if, on this ground, South Carolina had seen fit to lead in a resistance to the government, she would have had more followers than she had in 1832.

Through the next three sessions the excitement was furious. The petitions for abolition of slavery and the slave trade in the District, together with those for abolition in the territories, and for non-admission of territories tolerating slavery, came by scores. Where these, in the first session after the beginning of the struggle, contained but thirty-four thousand signatures, two years afterwards they bore three hundred thousand.[1] The number of anti-slavery societies, only a hundred and thirty in 1827, had increased to two thousand at the North ten years later. In the words of Mr. Schurz: "Calhoun said, 'if we yield an inch, we are gone'; he was certainly right. But to be entirely right, he should have added, 'if we stand firm we are gone likewise.'" However strongly the South might fence around its rights with resolutions and prohibitions, it could not do one thing to put down the spirit of freedom in the North which had been aroused. Slavery in the District was never again so safe as it had been before 1829. Even when Northern members were most servile in their speeches and in their voting, their servility had its limit, and a point was reached at last beyond which they dared not go.

December 30, 1837, the "secession" from the House of Representatives took place. Adams describes it as follows: "Slade's motion of Monday to refer a petition for abolition of slavery and the slave trade in the District of Columbia to a select committee came up. Polk, the Speaker, by some blunder, had allowed Slade's motion for leave to address the House in support of the petition without putting the question of laying on the table. So Slade to-day got the floor, and in a speech of two hours, on slavery, shook the very hall into convulsions. Wise, Legaré, Rhett, Dawson, Robertson, and the whole herd were in combustion. Polk stopped him half a dozen times, and was forced to let him go on. The

[1] Schurz, *Henry Clay*, ii., 152. Jay gives the number as thirty-seven thousand in 1836. *Miscellaneous Writings*, 399.

slavers were at their wits' end. At last one of them *objected* to his proceeding on the pretence that he was discussing slavery in Virginia, and on this pretence, which was not true, Polk ordered him to take his seat. A motion to adjourn, made half a dozen times before and pronounced out of order, was now started and carried by yeas and nays. Formal notice was immediately given by members of a meeting of slave-holding members in the Chamber of the Committee on the District of Columbia. Most, if not all, of the South Carolina members had left the hall." [1] At this meeting of slave-holders a resolution was introduced which declared in substance that " no gentleman who represented in Congress slave-holding constituents, ought again to take his seat in the House of Representatives until resolutions satisfactory to the South on the subject of slavery had been adopted." [2] The next day another rule for the House was recommended by Mr. Patton, of Virginia, and passed by a vote of one hundred and twenty-two to seventy-four.[3] This

[1] Adams, *Memoirs*, ix., 453, 454.

[2] Ex-Gov. Thomas, of Maryland, in *The Rebellion Record*, iii., 478.

[3] " Resolved that all petitions, memorials, and papers, touching abolition of slavery, or buying, selling, or transporting of slaves, in any state, district, or territory of the United States, be laid on the table without being debated, printed, read, or referred, and that no further action whatever be had thereon." Von Holst, ii., 266. At the call of his name on this motion, Adams responded : " I hold the resolution to be a violation of the constitution, of the right of petition of my constituents and of the people of the United States, and of my right of freedom of speech, as a member of this House." He says in the Memoirs : " I said this amid a perfect war-whoop of order. In reading over the names of the members, the clerk omitted mine. I then mentioned it, and the Speaker ordered the Clerk to call my name again. I did not answer, but moved that my answer when first called should be entered on the journal. The Speaker said the motion was out of order. . . . I moved that my motion be entered on the journal, with the decision of the Speaker that it was not in order ; to which he made no answer. 22d, H. of R. of U. S. On the reading of the journal, I found my motion yesterday made, to insert into the journal my answer to the gag resolution had been omitted. I moved to amend the journal. . . . Boon moved to lay my motion on the table. I asked for yeas and nays, but they were refused, and the motion was laid on the table ; but my answer was entered on the journal. Patton had come charged with a speech to prevent the entry on the journal. Boon's motion to lay mine on the table balked him, and I bantered him upon his resolution till he said that if the

was intended as a "concession for the sake of peace, harmony, and union." [1]

December 11, 1838, Mr. Atherton of New Hampshire offered a set of five resolutions against the introduction of anti-slavery petitions. They declared in effect that petitions for the abolition of slavery in the District of Columbia and the territories of the United States, and against the domestic slave-trade, were intended to destroy indirectly the institution in the several States; that they were, therefore, contrary to the true spirit and meaning of the Constitution, and that all petitions and papers relating to slavery, "as aforesaid," or abolition thereof, without any further action thereon, be laid on the table, without being printed, debated, or referred.[2] These resolutions passed by a considerable majority, though strongly opposed by some of the Southern members, for a reason given by one of them a few days afterwards. December 13th, Mr. Wise asked if the fifth resolution offered by Mr. Atherton, implied a *reception* of the petitions. The chair held that it did, and Mr. Wise then appealed to the House "If it is [a reception], the whole ground is gone and the abolitionists have triumphed, because, if you may receive petitions, you may refer them, and referring, you may report on them—unfavorably, you may say; but if you have the power to report at all, you may report favorably as well as unfavorably. . . . Now, he would ask the South if this was the compact which at last the South had gained from a Northern party with Southern principles? If this be the compact (namely to recognize the jurisdiction of Congress over the subject of slavery except directly in the States),

question ever came to the issue of war, the Southern people would march into New England and conquer it. I said I had no doubt they would if they could, and that was what they were now struggling for with all their might. I told him that I entered my resolution on the journal because I meant his name should go down to posterity damned to everlasting fame. He forced a smile and said we should then go down together. I replied precisely; side by side; that was what I intended. So conscious was he of the odious character of his resolutions, that he dared not resent these remarks."—*Memoirs*, ix., 454, 455.

[1] *Cong. Globe*, 25th Cong., 2d Sess., 45.

[2] *Cong. Globe*, 25th Cong., 3d Sess., 21, 22.

it is a compact nothing better than abolition itself."[1] The decision of the chair was sustained with very few dissenting votes. Among those upholding this decision were many who, three years before, were violently opposed to receiving the petitions.

To be consistent in the stand already taken, the House continued to act under a restrictive rule. As one would invariably prove ineffectual under the persistence of anti-slavery members, another would be adopted. January 28, 1840, a resolution offered by Mr. Johnson, of Maryland, was adopted,[2] and became the famous Number Twenty-one among the standing rules of the House. It declared that no petition or memorial praying for abolition of slavery or of the slave trade would be received by the House or entertained in any way whatever. At the beginning of each session after that, Adams moved the repeal of the "gag" rule. He was voted down but with a constantly decreasing majority until 1844 when the rule was finally abolished.

A week after Mr. Patton's concession to the House, in 1837, Mr. Calhoun introduced six resolutions into the Senate, as a *test*, he said, of the sincerity of the friends of slavery. Their foundation was the doctrine of State rights. "The intermeddling" of any State or its citizens in the domestic institutions of another State was not justifiable, and "the Federal government ought to use its powers to protect those institutions." The fifth resolution declared that "the interference by citizens of any of the states with a view to the abolition of slavery in the District would be a violation of the faith implied in the cession by the states of Maryland and Virginia, a just cause of alarm to the people of the slave-holding states, and have a direct tendency to disturb and endanger the Union." It was unsafe to demand a question on the constitutionality of abolition, for the more considerable party in the Senate would uphold the right of the government. With a very material modification, the resolutions were passed.

[1] *Cong. Globe*, 26th Cong., 1st Sess., 151.

[2] *Cong. Globe*, 25th Cong., 3d Sess., 32.

Yet, the Senate, through the whole struggle, never yielded so much as the House. No "gag" rule was passed, and petitions were always received and often discussed. In spite of Calhoun's bitterness, there, as in the House, the tendency was for the members of the middle party to merge into one or the other of the extreme parties. A few still held their place, but many, in 1837 and 1838, declared themselves disgusted with the abolitionists, and ready to adopt any measure that would defeat their ends; or, feeling obliged to submit to the rapidly changing sentiment in the North, took the other side.

It is interesting to notice the position of the Northern States during this struggle. At the beginning, nearly every Northern member had flatteringly assured his aristocratic brethren of the South that the abolitionists were no very large or respectable body in his State, or district. In 1837, 1838, and 1839, it became a source of some embarrassment to them that so many of the State Legislatures declared against the action of Congress. The answer to a question regarding it, that these resolutions were passed by the lower branch of the Legislature, and so did not represent the opinion of the more cultured people, could hardly be satisfactory. When the struggle began, not a large proportion of the North advocated abolition in the District. The Legislatures of Pennsylvania and New York in 1828 and 1829 [1] instructed their representatives to procure, if practicable, the passage of such a law; but when the attempt failed, it was generally thought to have been premature. In 1837, Adams wrote in his journal: "I have gone as far on this article, the abolition of slavery, as the public opinion of the free portion of the Union will bear." [2] He and his supporters were struggling for constitutional rights; many of them looked upon abolition in the District of Columbia as undesirable. Even in 1838, he doubts "if there are five members in the House who would vote for a bill to abolish slavery in the District of Columbia at this time." [3]

[1] Jay, *Miscellaneous Writings*, 214, 215.

[2] Adams, *Memoirs*, ix., 418.

[3] Adams, *Memoirs*, x., 63.

The presidential campaign of 1836 was a pro-slavery campaign, and opposition to abolition in the District was made the condition of the acceptance of any candidate. Mr. White declared himself of the opinion that Congress had no power to abolish slavery there.[1] Mr. Van Buren wrote: "I must go into the presidential chair the inflexible and uncompromising opponent of any attempt on the part of Congress to abolish slavery in the District of Columbia against the wishes of the slave-holding states."[2] Even Mr. Harrison was understood to be "sound" on the subject.[3] March 4, 1837, the new President in his inaugural address promised that "no bill for the abolition of slavery in the District of Columbia, if passed without the consent of the slave-holding states, could ever receive his constitutional consent."[4]

After this season of turmoil was past little more was said as to the power of Congress in the District. Probably some held to their old opinions, but many must have yielded them, when the compromise of 1850 went into effect. The denial of power to Congress had extended to the slave trade. But the compromise provided for the abolition of the slave trade in the District, and in the fall of 1850 the bill prohibiting it was passed. They who had "taken their stand on a principle" were ready to abandon their principle for the sake of gaining a new advantage.

The effect of this contest on the people of the District during this time seems to have been to turn them against abolition. In 1837 and 1839 petitions were read in the House and in the Senate remonstrating against abolition in the District, and against the interference of citizens of the States. One of these in 1837 was from the Grand Jury of Washington County, and the Senate ordered five thousand copies of it printed because "it had the true ring."

The excitement cools down after the session of 1839–40.

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[1] Jay, *Miscellaneous Writings*, 222.
[2] Jay, *Miscellaneous Writings*, 222.
[3] Jay, *Miscellaneous Writings*, 223; *National Era*, Sept. 7, 1848.
[4] *Life of Lundy*, 287.

Petitions, many of them referring to the District, still come in by scores, but they no longer arouse the same fury. Occasionally an attempt is made to introduce a bill or an amendment to a bill which shall provide for abolition. The territorial question supersedes almost entirely the District question. It involves the same principle, yet practically is vastly greater in importance. Between 1830 and 1840 the two usually are united in petitions and resolutions, and later a reference to one frequently brings the other into notice also. But interest in the one gradually cools as the strife over the other waxes fiercer. It is finally over the territorial not the District question that defeat becomes inevitable. Defeat on the other must follow of necessity, and there can be no doubt that "the chain will be broken."

January 10, 1849, a bill was presented by Abraham Lincoln for abolition in the District. On introducing it he said that of the fifteen residents of the District to whom he had already shown it, there was not one but approved it. It provided that no person without the District should be held to service within it, and that no person born thereafter in the District of Columbia should be held in slavery. It also provided for gradual emancipation of slaves, with compensation to masters, and declared that the act should be submitted to the people of the District for their approval or disapproval.[1] He believed that if it were left to the people, they would vote against slavery. At least it was right to learn their wishes on the subject. Lincoln's bill did not represent his ideal. "He prepared it with reference to the public sentiment of the time, and what was possible to be accomplished." The sentiment of Congress was so strongly against it that it was almost immediately disposed of. Mr. Giddings at the same session tried to introduce a bill allowing the free people of the District to decide by vote whether they would abolish slavery. When, in response to a question, he declared the term "free people" to include free negroes, his measure was doomed. In 1850 Mr. Seward tried to in-

[1] Arnold, *Life of Lincoln*, 80.

troduce an abolition amendment into the slave trade bill, but failed.[1] The provisions were, for the most part, very reasonable, and, like the plan of Lincoln, made it conditional upon the will of the people of the District.

Opinion had not reached the proper point yet. It was something to have gained the compromise on the slave trade. Ten years witnessed an enormous growth in anti-slavery sentiment. A new compromise had evinced the insatiable appetite of the slave power, a new party formed a strong backing for anti-slavery efforts, and a presidential election now served to reveal the desperate earnestness of the South. All these were powerful impulses to the growth of what, from its nature as a moral principle, must increase when it had once taken root.

December 4, 1861, Mr. Wilson introduced a resolution into the Senate to the effect that all laws in force relating to the arrest and imprisonment of fugitives from service, and all laws concerning persons of color within the District, be referred to the Committee on the District of Columbia, and that the committee be instructed to inquire into the expediency of abolishing slavery in the District, with compensation to the loyal holders of slaves.[2] There was much objection to the bill at last brought in, both from those claiming to favor its end and from its enemies. Members from Maryland, Virginia, Delaware, and Kentucky, for the most part, opposed it strongly. They still regarded it as a breach of constitutional faith. They believed that it was unnecessary, that it certainly was but the first step towards a general abolition, and that it was dangerous and would prolong the war, because it would arouse greater bitterness in the South and turn many in the border States against the government.[3]

[1] The amendment was to strike out all after the enacting clause and substitute a provision for abolition. The first clause declared all slaves free, and provided that the Secretary of the Interior should pay all persons within the District such damages as they suffered by reason of the law, and that $200,000 be appropriated for the purpose. Clause 2d provided for taking a vote of the people. If the majority favored it the bill should go into effect immediately.

[2] Wilson, *Rise and Fall of the Slave Power*, iii., 271.

[3] *Cong. Globe*, 37th Cong., 2d Sess., 1353–1356.

It had been asserted in 1856 that probably a majority of the inhabitants of the District would before long be ready to favor abolition.[1] Yet they were not wholly satisfied with the bill, because it increased the number of free negroes, who had always been held an undesirable element in the population. A memorial to the Senate, April 2d, from the Mayor and Board of Aldermen represented the opinion of the people of the District as averse to unqualified abolition in the present state of national affairs. They also asked that the proper safeguards be provided against the District of Columbia becoming an asylum for free negroes from Maryland and Virginia.[2] The *National Intelligencer* for April 12, 1862, says: "Slavery was doomed to gradual extinction in the District of Columbia anyway, and few people would have regretted it. It is only the sudden emancipation that disturbs the people of the District of Columbia and alarms the border states." Meetings were held in Maryland and resolutions drawn up, protesting against the measure and pronouncing it "unconstitutional as taking private property not for public use, nor for just compensation, unwise, ill-timed, both politically and financially."[3] Mr. Saulsbury, of Delaware, in the course of the debate on this bill, moved that the three thousand slaves thus liberated be removed to the different Northern States. These States had no free colored population, and the District was already burdened with eleven thousand of these people. It would be a good opportunity for these States to "render their philanthropy and love of freedom sublime in the sight of all human kind."[4]

On the other hand, Mr. Pomeroy of Kansas, with several others, took the extreme ground that the act was unnecessary, because the law of 1801, so far as it established slavery in the Federal District, always had been unconstitutional.[5]

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[1] Olmstead, *Journey in the Seaboard States*, 14.
[2] *Cong. Globe*, 37th Cong., 2d Sess., 1496.
[3] *Annual Cyclopædia*, 1862, 560.
[4] *Cong. Globe*, 37th Cong., 2d Sess., 1356.
[5] *Cong. Globe*, 37th Cong., 2d Sess., 1285.

He proposed to strike out all but the first and last sections of the bill. The speech of Mr. Sumner brings out still another point. "It will be observed that the original statute, which undertakes to create slavery in Maryland, does not attaint the blood beyond two generations. It is confined to all negroes and other slaves and their children during their natural lives." [1] Again: "Slavery, beginning in violence, can have no legal or constitutional existence, unless through positive words expressly authorizing it. As no such positive words can be found in the constitution, all legislation by Congress supporting slavery must be unconstitutional and void, while it is made still further impossible by positive words of prohibition guarding the liberty of every *person* within the exclusive jurisdiction of Congress." [2]

The bill received the final vote in the Senate April 3, 1862, passed the House April 11th, and was made a law by the signature of the President April 16th.[3] In his message to the Senate he said: "I have never doubted the constitutional authority of Congress to abolish slavery in the District of Columbia; and I have ever desired to see the capital freed from the institution in some satisfactory way. Hence there has never been in my mind any question upon the subject, except the one of expediency, arising in view of all the circumstances. If there be matters within and about

[1] The Maryland law of 1715, Sec. 22, says: "All negroes and other slaves already imported or hereafter to be imported into this province, and all children born or hereafter to be born, of such negroes and slaves shall be slaves during their natural lives."

[2] *Cong. Globe*, 37th Cong., 2d Sess., 1449.

[3] The provisions of this law were as follows: 1. Neither slavery nor involuntary servitude shall exist in the District. 2. Presentation of a certificate of value of slaves by the owner. 3. Three commissioners to be appointed to investigate the claims and apportion the money value, which shall not exceed an average of $300 for each slave. 4. This money value is to be paid out of the treasury of the U. S. 5. Commissioners may have power to compel the attendance of witnesses. 6. Provides for the compensation of the commissioners. 7. A sum not to exceed $1,000,000 appropriated for carrying out this law. 8. Declares the punishment for kidnapping. 9. A record of his slaves shall be furnished by each owner. 10. A certificate of manumission shall be given each slave. 11. $100,000 is appropriated for colonization. 12. All laws contrary to this act are repealed.

this act which might have taken a course more satisfactory to my judgment, I do not attempt to specify them. I am gratified that the two principles of compensation and colonization are both recognized and practically applied in this law." The number of slaves freed by this act was about thirty-one hundred[1]; the amount expended in the execution of the law was $993,406.35. One clause in an act of May 21, 1862, repealed those portions of the Black Code left untouched by the law of April 16th.

Thus, after more than sixty years, reparation was made for the government's shameful participation in a people's sin. The first step towards this reparation had been taken in 1850 with the prohibition of the slave trade. The abolition of the Black Code completed the tardy work, which had been postponed for years from fear of causing disunion. Disunion had come first, and now the nation was free to do what could no longer be considered a merit, but had become an imperative duty. Immediate emancipation with compensation, the best that could be done at this late day, was made a substitute for the gradual emancipation that might have effected complete freedom a generation earlier.

The anti-slavery sentiment of the South—and of the North also, so far as concerned the general subject—in the first half century of our national independence was a mere sentiment, necessarily, which, instead of adopting vigorous measures, trusted to time and national progress for working out a reform that could not be seen to be contrary to personal and property interests. There was no opposition to this sentiment as long as it remained undefined and general. As soon as it began to be directed towards an object, as soon as, in that respect, it became localized, defenders of slavery sprang up in all parts of the country.

That the first movement against slavery in the District should arise in the North was natural; in fact, not to have originated it would have been a discredit to the free States. The responsibility for its existence there rests quite as much

[1] The Census Report for 1860 gives the number as 3,185.—*Compendium of Ninth Census*, 16. The number of free blacks was 11,141.—*Id.*, 14.

with the North as with the South. The Northern States, though free by State laws, could not fairly count themselves entirely free as long as slavery existed through their acquiescence and protection at the seat of government. The credit for first recognizing this must be given to New Jersey, through her representative, Mr. Sloan. At any time from 1805 to 1829, if the North had been a unit on the question, abolition in the District might have been carried, with the help of the Southern members that favored it.[1]

In 1829 a distinct change begins to take place in the attitude of the South on the question. Before that time abolition in the District had not been considered seriously, and men did not perceive its significance. Southern men did not care to oppose such a measure directly; several, in fact, suggested carrying it. As a body, however, they were content to avoid, on general principles, any discussion of slavery. It was the abolitionists themselves that first disclosed the tendency of the movement. The first note of warning to the South was sounded by Mr. Dorsey of Maryland in his speech on the Baltimore memorial in 1827. Even then not all the Southern members saw the drift of affairs. It took till 1836 to place themselves in solid phalanx to oppose such a measure.

The determination to resist abolition in the District was not formed because they cared for slavery there. The three thousand slaves, more or less, made not the slightest difference to the Southern States. The claim that the District must be held as a necessary "outpost" was absurd.[2] They did not really believe that the government would

[1] It is noticed by Mr. Slade, in his speech in the House January 18, 1840, that in 1829 Mr. Miner's resolutions received eleven votes from slave States, viz.: one from Delaware, two from Maryland, three from Virginia, one from North Carolina, one from Tennessee, and three from Kentucky.—*Cong. Globe*, 26th Cong., 1st Sess., Appendix, 891.

[2] *National Era*, March 29, 1849. Reference to speech of a Senator from South Carolina. An inhabitant of the District of Columbia says in this year: "It is quite too childish to urge against the measure here, that it will be the commencement of a war on the institutions of the South."—*Nat. Era*, April 19, 1849.

interfere with slavery in the States: the most fanatical of the abolitionists never had claimed that the Constitution gave that right. The South depended even more than they professed to do upon moral support. They had persuaded themselves that slavery was right, or, at least, that it was a less evil than emancipation. Slavery in the District served merely as a gauge by which to measure the anti-slavery sentiment of the country. As soon as a majority of the nation should be induced to declare not merely the abstract principle that slavery was wrong, but that it could and should be remedied by legislation, the position of the South would be shaken. Because of the moral influence in their own States of such a declaration, they were determined it should not be made. This is precisely the reason, also, that the abolitionists were so persistent. The plan had been suggested in 1817, and the result came to be looked upon as inevitable. Thus, in 1846, Sumner said: "It has sometimes occurred to me that slavery in our country is like the image in Nebuchadnezzar's dream, whose feet of clay are in the District of Columbia, where they may be shivered by congressional legislation directed by an enlightened northern sentiment, so that the whole image shall tumble to the earth."[1] This agitation is claimed by Southern leaders to be one of the direct causes leading to secession.[2]

Between 1829 and 1836 there appears also a change in the demands of the abolitionists. The resolutions 1805, of 1809, 1826, and 1829, as well as all petitions up to 1829, besides the abolition of the slave trade, asked for gradual emancipation. After that date petitions begin to come in asking immediate emancipation, and immediate emancipation, with abolition of the slave trade, becomes the later demand of all the abolitionists.

The victory was won temporarily by the South. Agitation of the District matter died down, and slavery in the territories became the burning question, not because belonging more closely to the principle, but because involving larger

[1] Speech on Slavery and the Mexican War, *Works*, i., 337.

[2] Davis, *Rise and Fall of the Confederate Government*, ii., 172.

personal and political interests. When defeat on this point became inevitable, defeat on the earlier one also was assured. The election of the Republican President showed that the balance had turned; public opinion pronounced against slavery, and the South seceded.

For years the slave-holding interest in the District had been small, and without doubt the majority of the inhabitants regarded it with indifference. After 1829 the increasing violence of Southern opposition to emancipation, the slavery insurrections, and the supposed undesirability of a large free black population, served to suppress any anti-slavery opinions that may have existed. The evidence all shows that, personally, the inhabitants cared little for the continuance of slavery. But whatever their opinions, the course of the government was undeviating. It was a struggle of the whole country, not for the sake of the District, but for the sake of the country, and the opinions and desires of the people of the District had as little weight on that as on any other question of general interest.

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